

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

MEMORANDUM

TO: Doug Rickey
Department of Fish & Game

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: April 11, 2017

RE: Filed Permanent Regulations: Commercial Fisheries Entry Commission

Commercial Fisheries Entry Commission regulations re: gear code for Southern
Southeast Inside sablefish longline fishery permits (20 AAC 05.220(a))

Attorney General File:	JU2016200943
Regulation Filed:	4/11/2017
Effective Date:	5/11/2017
Print:	222, July 2017

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO REGULATIONS OF THE
COMMERCIAL FISHERIES ENTRY COMMISSION

The attached three (3) pages of regulations dealing with gear codes for the Southern Southeast Inside sablefish longline fishery are certified to be a correct copy of the regulation changes that the Commercial Fisheries Entry Commission adopted at its March 13, 2017 public meeting, under the authority of AS 16.43.110 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and AS 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Ten public comments were received, and the Commercial Fisheries Entry Commission paid special attention to the costs 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:


March 16, 2017

Juneau, Alaska



Bruce Twomley, Commissioner

FILING CERTIFICATION

I, , Lieutenant Governor for the State of Alaska, certify that
on April 11, 2017 at 1400 .m., I filed the attached regulations
according to the provisions of AS 44.62.040-44.62.120.



Lieutenant Governor

Effective:

May 11, 2017

Register:

222, July 2017

STATE OF ALASKA)
) ss
FIRST JUDICIAL DISTRICT)

AFFIDAVIT OF COMMISSION ACTION


I, Randy J. Lippert, Paralegal for the Commercial Fisheries Entry Commission, being duly sworn, state the following:

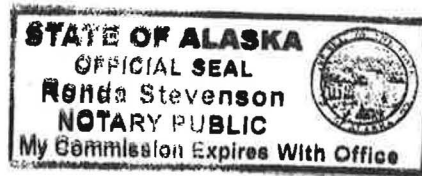
The attached motion, dealing with the gear code for the Southern Southeast Inside sablefish longline entry permits, was adopted by the Commercial Fisheries Entry Commission during its March 13, 2017 meeting.

Date: 3/16/17
Juneau, Alaska


Randy J. Lippert

SUBSCRIBED AND SWORN TO before me this 16 day of March, 2017.


Notary Public in and for the State of Alaska



20 AAC 05.220(a) is amended to read:

- (a) A number code from the following schedule will be used to indicate the specific type of gear for which an interim-use or entry permit is issued:

Code

01	purse seine (hand or power)
1 (A - D)	herring gillnet and seine, combined fishery, with vessel restrictions++
02	beach seine
03	drift gillnet
04	set gillnet
05	hand troll
06	longline (registered vessel length under 60 feet)
07	otter trawl
7 (A - D)	trawl with vessel restrictions++
7 (F - I)	trawl gear for miscellaneous saltwater finfish fishery+++
08	fish wheel
9	pot gear (Area A king and Tanner crab fisheries)
09	pot gear (registered vessel length under 60 feet)
9 (A - D)	pot gear with permit restrictions++
10	ring nets
11	diving gear
12	hand picking**
15	power troll
17	beam trawl

18	shovel
21	pound*
2 (A - B)	scallop dredge (A is for vessels with an overall length of more than 80 feet, and B is for vessels with an overall length of 80 feet or less)
23	mechanical or hydraulic digger
25	dinglebar troll gear
26	power-driven mechanical jigging machine
31	herring gillnet and purse seine, combined permit
34	herring gillnet
37	pair trawl
4 (A - D)	net gear with vessel restrictions (includes trawl or any other gear authorized by the Board of Fisheries that catches fish with nets and, as specified under 5 AAC 28.230, pot gear)++
5 (A - D)	fixed gear with permit restrictions (includes longline or any other gear authorized by the Board of Fisheries that catches fish with fishing hooks and, as specified under 5 AAC 28.230, pot gear)++
61	longline (required for vessels with registered vessel length 60 feet or over, but may be used aboard smaller vessels)++++
6 (A - B)	longline gear for miscellaneous saltwater finfish fishery (A is for vessels with an overall length of 90 feet or over and B is for vessels with an overall length of at least 60 feet but less than 90 feet)
77	institutional (all legal gear types used in a special harvest area or by the holder of an educational entry permit)
80	fishing derby (as authorized under AS 16.05.662)

- 91 pot gear (required for vessels with registered vessel length 60 feet or over, but may be used aboard smaller vessels)
- 97 aquatic farming (required to harvest, from an aquatic farm under 5 AAC 41.200 - 5 AAC 41.400, wild stock of a species identified for culture in the operation permit)
- 99 other

* A herring pound permit allows the incidental use of other gear when operated in compliance with a pound permit issued by the commissioner of fish and game.

** A hand picking permit in the Prince William Sound herring wild spawn-on-kelp fishery includes and authorizes use of diving gear.

++ A permit issued with this gear code restricts the fishing capacity that a permit holder can use, as set out in 20 AAC 05.764, 20 AAC 05.779, 20 AAC 05.823, or 20 AAC 05.831.

+++ For miscellaneous saltwater finfish trawl permits, F-I corresponds to the overall length of the vessel indicated on the permit as follows: F is for an overall length less than 60 feet; G is for an overall length at least 60 feet but less than 90 feet; H is for an overall length 90 feet to 125 feet; and I is for an overall length more than 125 feet. A permit with G, H, or I may be used on a vessel that is smaller than the vessel that corresponds with the permit.

++++ A permit with this gear code issued for the Southern Southeast Inside sablefish

longline fishery includes pot gear.

(Eff. 12/18/74, Register 52; am 4/9/76, Register 58; am 1/1/78, Register 64; am 12/27/79, Register 72; am 12/30/82, Register 84; am 3/16/83, Register 85; am 11/25/84, Register 92; am 11/22/87, Register 104; am 3/3/94, Register 129; am 5/4/95, Register 134; am 12/15/95, Register 136; am 8/9/96, Register 139; am 9/13/2001, Register 159; am 1/2/2003, Register 164; am 11/6/2005, Register 176; am 7/20/2006, Register 179; am 6/1/2013, Register 206; am 5/11/2017, Register 222)

Authority: AS 16.43.100
AS 16.43.110

AS 16.43.140

AS 16.43.990

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: April 11, 2017

File No.: JU2016200943

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Commercial Fisheries Entry
Commission regulations re: gear code
for Southern Southeast Inside
sablefish longline fishery permits
(20 AAC 05.220(a))

We have reviewed the attached regulations from the Commercial Fisheries Entry Commission against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated April 11, 2017 from the Regulations Attorney. The regulations make an update to state that a permit with a gear code issued for the Southern Southeast Inside sablefish longline fishery includes pot gear.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The December 22, 2016 public notice and the March 16, 2017 certification of adoption order both 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 insert the history note and the authority citation for the regulations in accordance with AS 44.62.125, as shown on the attached copy.

SCW

cc w/enc: (via email)

Bruce Twomley, Chair
Commercial Fisheries Entry Commission

Doug Rickey, Regulations Contact
Commercial Fisheries Entry Commission

Frances Leach, Regulations Contact
Department of Fish and Game

Thomas Lenhart, Sr. Assistant Attorney General
Natural Resources Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: April 11, 2017

FILE NO.: JU2016200943

TELEPHONE NO.: (907) 465-3600

FROM: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority
regarding regulations review on
Commercial Fisheries Entry
Commission regulations re: gear
code for Southern Southeast
inside sablefish longline fishery
permits (20 AAC 05.220(a))

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Sr. Assistant Attorney General and
Assistant Regulations Attorney
Legislation/Regulations Section

NOTICE OF PROPOSED CHANGE IN REGULATION
AND OF A PUBLIC HEARING

COMMERCIAL FISHERIES ENTRY COMMISSION

BRIEF DESCRIPTION

The Commercial Fisheries Entry Commission proposes to adopt a change in regulation that will allow holders of Southern Southeast Inside sablefish longline entry permits to operate pot gear in that fishery.

The Alaska Commercial Fisheries Entry Commission proposes to adopt a regulation change in Title 20, Chapter 05 of the Alaska Administrative Code, as follows

The Commission proposes to:

1. Amend 20 AAC 05.220(a) to include pot gear for permits issued for the Southern Southeast Inside sablefish longline fishery.

A copy of the proposed regulation change is available online at the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx> or at the Commercial Fisheries Entry Commission webpage at https://www.cfec.state.ak.us/mnu_Regulations.htm, or you may contact Doug Rickey, Law Specialist, Commercial Fisheries Entry Commission, 8800 Glacier Highway, Suite 109, P.O. Box 110302, Juneau, AK 99811-0302, (907) 790-6963, fax: (907) 790-7063, email doug.rickey@alaska.gov.

You may comment on the proposed regulation change, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Doug Rickey at Commercial Fisheries Entry Commission, 8800 Glacier Highway, Suite 109, P.O. Box 110302, Juneau, AK 99811-0302, or by email to: doug.rickey@alaska.gov, or by facsimile at (907) 790-7063. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received **no later than 4:30 p.m. on February 17, 2017**.

You may also submit written questions relevant to the proposed action to Doug Rickey, Law Specialist, Commercial Fisheries Entry Commission, 8800 Glacier Highway, Suite 109, P.O. Box 110302, Juneau, AK 99811-0302, or by fax: (907) 790-7063, email doug.rickey@alaska.gov. The questions must be received at least 10 days before the end of the public comment period. The Commercial Fisheries Entry Commission will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and https://www.cfec.state.ak.us/mnu_Regulations.htm.

Oral or written comments may also be presented at a **public hearing** to be held on **February 17, 2017**, at the Commercial Fisheries Entry Commission Conference Room, 8800 Glacier Hwy., Suite 109, Juneau, Alaska. The hearing will be held from **3:00 p.m. to 4:30 p.m.** and may be extended to accommodate those present before 4:30 p.m. If you wish to participate in the meeting by telephone, please contact Doug Rickey at Commercial Fisheries Entry Commission, 8800 Glacier Highway, Suite

109, P.O. Box 110302, Juneau, AK 99811-0302, or by email to: doug.rickey@alaska.gov, or by telephone at (907) 790-6963, or by facsimile at (907) 790-7063, and you will be provided with the appropriate telephone number prior to the meeting.

If you are a person with a disability who may need a special accommodation in order to participate in this process, please contact Doug Rickey at (907) 790-6963 no later than February 3, 2017, to ensure that any necessary accommodations can be provided.

After the public comment period ends, the Commercial Fisheries Entry Commission will either adopt these or other provisions dealing with the same subject without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments received are public records and are subject to public inspection.

Statutory Authority: AS 16.43.100; AS 16.43.110(a)

Statutes Being Implemented, Interpreted, or Made Specific: AS 16.43.100; AS 16.43.110; and AS 16.43.140.

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

The Commission keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Commission's Notice of Proposed Regulation Changes. To be added to or removed from the list, send a request to CFEC at 8800 Glacier Highway, Suite 109, P.O. Box 110302, Juneau, AK 99811-0302, or email: doug.rickey@alaska.gov, giving your name, and either your email address or mailing address, as you prefer for receiving notices.

By Direction of the
Commercial Fisheries Entry Commission
Bruce Twomley, Chairman
Benjamin Brown, Commissioner

/s/ Bruce Twomley

Date: December 19, 2016.

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Commercial Fisheries Entry Commission
2. General subject of regulation: Amend gear code regulation to allow Southern Southeast Inside sablefish longline permit holders to fish pot gear in that fishery.
3. Citation of regulation (may be grouped): 20 AAC 05.220(a)
4. Department of Law file number, if any: JU2016200943

5. Reason for the proposed action:

- () Compliance with federal law or action (identify): _____
- () Compliance with new or changed state statute
- () Compliance with federal or state court decision (identify): _____
- (x) Development of program standards
- (x) Other (identify): request of Alaska Board of Fisheries

6. Appropriation/Allocation: Commercial Fisheries/Commercial Fisheries Entry Commission.

7. Estimated annual cost to comply with the proposed action to:

A private person: -0-

Another state agency: -0-

A municipality: -0-

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>2017</u>	Subsequent Years
Operating Cost	\$ <u>-0-</u>	\$ <u>-0-</u>
Capital Cost	\$ <u>-0-</u>	\$ <u>-0-</u>
1002 Federal receipts	\$ <u>-0-</u>	\$ <u>-0-</u>
1003 General fund match	\$ <u>-0-</u>	\$ <u>-0-</u>
1004 General fund	\$ <u>-0-</u>	\$ <u>-0-</u>
1005 General fund/ program	\$ <u>-0-</u>	\$ <u>-0-</u>
Other (identify)	\$ <u>-0-</u>	\$ <u>-0-</u>

9. The name of the contact person for the regulation:

Name: Doug Rickey

Title: Law Specialist

Address: 8800 Glacier Hwy., Ste. 109; PO Box 110302, Juneau, AK 99811-0302

Telephone: (907) 790-6963

E-mail address: Doug.Rickey@alaska.gov

10. The origin of the proposed action:

☒ Staff of state agency

☐ Federal government

☐ General public

☐ Petition for regulation change

☒ Other (identify): Alaska Board of Fisheries

11. Date: December 20, 2016

Prepared by: /s/ Doug Rickey

Name (printed): Doug Rickey

Title (printed): Law Specialist

Telephone (907) 790-6963

STATE OF ALASKA)
) ss
FIRST JUDICIAL DISTRICT)

AFFIDAVIT OF NOTICE OF PROPOSED REGULATIONS
AND FURNISHING OF ADDITIONAL INFORMATION

I, Bruce Twomley, Commissioner, Commercial Fisheries Entry Commission, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to regulations dealing with the gear allowed for the Southern Southeast Inside sablefish longline fishery has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1); and
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Resources Committee of Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

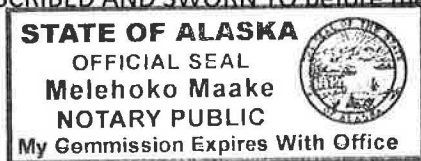
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) on the list above. The additional regulation notice information has also been posted on the Alaska Online Public Notice System.

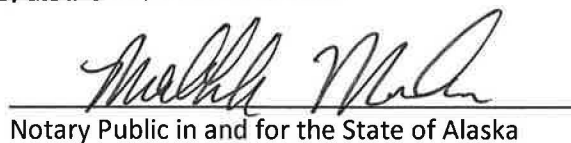
Date:

March 16, 2017
Juneau, Alaska


Bruce Twomley

SUBSCRIBED AND SWORN TO before me this 16th day of March, 2017.



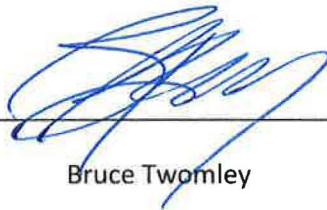

Notary Public in and for the State of Alaska

AFFIDAVIT OF ORAL HEARING

I, Bruce Twomley, Chair of the Alaska Commercial Fisheries Entry Commission (CFEC), being sworn, state the following:

On February 17, at 3 pm, in the Conference Room, Suite 110, of the CFEC offices at 8800 Glacier Highway, Juneau, Alaska 99801, I presided over a public hearing held under AS 44.62.210 for the purpose of taking testimony in connection with the adoption of changes to 20 AAC 05.220(a) to include pot gear for permits issued for the Southern Southeast Inside sablefish longline fishery.

Date: March 29, 2017.



Bruce Twomley

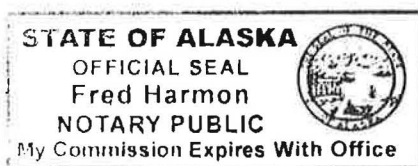
Chair, Alaska Commercial Fisheries Entry Commission

Subscribed and sworn to before me at Juneau, AK on

March 29, 2017



Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Bruce Twomley, Chair of the Alaska Commercial Fisheries Entry Commission (CFEC), being duly sworn, state the following:

In compliance with AS 44.62.215, the CFEC has kept a record of its use or rejection of factual or other substantive information that was submitted in writing and orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the CFEC regulation on the inclusion of pot gear for permits issued for the Southern Southeast Inside sablefish longline fishery

Date: March 29, 2017



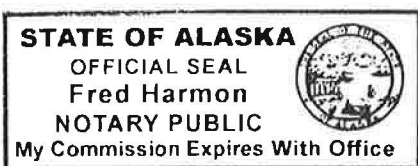
Bruce Twomley

Chair, Alaska Commercial Fisheries Entry Commission

Subscribed and sworn to before me at Juneau AK on
March 29, 2017.



Notary Public in and for the State of Alaska



COMMERCIAL FISHERIES ENTRY COMMISSION

March 13, 2017

Excerpt from Unapproved Minutes

Commissioner Brown moved and Commissioner Twomley seconded the following motion:

I move to adopt the proposed change to 20 AAC 05.220(a) as reflected in the three (3) page document before us, which states that a permit issued with a "61" gear code in the Southern Southeast Inside sablefish longline fishery includes pot gear.

The motion passed unanimously.

DEC 28 2016

CFEC

270208
0001397573
\$507.98

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Lisa Hartlieb
being first duly sworn on oath deposes and says that he/she is a representative of the Alaska Dispatch News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

December 22, 2016

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed

Subscribed and sworn to before me
this 22nd day of December, 2016

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES

2/23/2019
Notary Public
BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

NOTICE OF PROPOSED CHANGE IN REGULATION AND OF A PUBLIC HEARING

COMMERCIAL FISHERIES ENTRY COMMISSION

BRIEF DESCRIPTION

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The Alaska Commercial Fisheries Entry Commission proposes to adopt a regulation change in Title 20, Chapter 05 of the Alaska Administrative Code, as follows:

The Commission proposes to:

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A copy of the proposed regulation change is available online at the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx> or at the Commercial Fisheries Entry Commission webpage at https://www.cfec.state.ak.us/mnu_Regulations.htm, or you may contact Doug Rickey, Law Specialist, Commercial Fisheries Entry Commission, 8800 Glacier Highway, Suite 109, P.O. Box 110302, Juneau, AK 99811-0302, (907) 790-6963, fax: (907) 790-7063, email doug.rickey@alaska.gov.

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You may also submit written questions relevant to the proposed action to Doug Rickey, Law Specialist, Commercial Fisheries Entry Commission, 8800 Glacier Highway, Suite 109, P.O. Box 110302, Juneau, AK 99811-0302, or by fax: (907) 790-7063, email doug.rickey@alaska.gov. The questions must be received at least 10 days before the end of the public comment period. The Commercial Fisheries Entry Commission will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and https://www.cfec.state.ak.us/mnu_Regulations.htm.

Oral or written comments may also be presented at a **public hearing** to be held on **February 17, 2017**, at the Commercial Fisheries Entry Commission Conference Room, 8800 Glacier Hwy., Suite 109, Juneau, Alaska. The hearing will be held from **3:00 p.m. to 4:30 p.m.** and may be extended to accommodate those present before 4:30 p.m. If you wish to participate in the meeting by telephone, please contact Doug Rickey at Commercial Fisheries Entry Commission, 8800 Glacier Highway, Suite 109, P.O. Box 110302, Juneau, AK 99811-0302, or by