

Byron Mallott  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
WWW.LTGOV.ALASKA.GOV



530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

**TO:** Frances Leach  
Department of Fish & Game

**FROM:** Scott Meriwether, Office of the Lieutenant Governor  
465.4081

A handwritten signature in blue ink, appearing to be "Scott Meriwether".

**DATE:** October 9, 2017

**RE:** Filed Permanent Regulations: Department of Fish & Game

Department of Fish and Game Regulations re: Definition of Tender Vessel (5 AAC 39.130)

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Attorney General File:	JU2017200482
Regulation Filed:	10/6/2017
Effective Date:	11/5/2017
Print:	224, January 2018

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

**ORDER ADOPTING CHANGES TO REGULATIONS  
OF THE DEPARTMENT OF FISH AND GAME**

The attached one page of regulations, dealing with adding a definition of tender vessel for reports required of fishermen, processors, buyers, exporters, and operators of certain commercial fishing vessels; and for transporting requirements, are adopted and certified to be a correct copy of the regulation changes that the Department of Fish and Game adopts under the authority of AS 16.05.020, AS 16.05.050, AS 16.05.671, and AS 16.05.690, 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.

In considering public comments, the Department of Fish and Game paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under 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:

9/18/17

Juneau, Alaska



Charles O. Swanton, Deputy Commissioner  
Department of Fish and Game

**FILING CERTIFICATION**

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on October 6 2017, at 2:05pm., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Byron Mallott, Lieutenant Governor  
State of Alaska

Effective:

November 5, 2017

Register:

224, January 7, 2018

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME  
P.O. BOX 115526  
JUNEAU, ALASKA 99811

DELEGATION OF AUTHORITY

UNDER AS 44.17.010, THE AUTHORITY AND RESPONSIBILITY FOR ADOPTING  
REGULATIONS OF THE DEPARTMENT OF FISH AND GAME UNDER THE ALASKA  
ADMINISTRATIVE PROCEDURE ACT ARE DELEGATED TO CHARLES O. SWANTON,  
DEPUTY COMMISSIONER.

SIGNED:

Sam Cotten

SAM COTTEN

(Please print name)

SIGNED AND SWORN TO before me this 2 day of February, 2015

[NOTARY SEAL]

Abby Smith  
Notary Public in and for the  
State of Alaska

My commission expires: with office

STATE OF ALASKA  
OFFICIAL SEAL  
Abby Smith  
NOTARY PUBLIC  
My Commission Expires with office



**Title 5. Fish and Game.**

**Chapter 39. General Provisions.**

**Article 1. General.**

(o)  
5 AAC 39.130<sup>^</sup> is amended by adding a new paragraph to read:

(17) “tender vessel” means a vessel whose operator acts as an agent for a processor and accepts delivery of fish from a commercial fisherman or another tender vessel for transport to a shore-based or floating processor. (In effect before 1981; am 6/28/81, Register 78; am 4/16/83, Register 86; am 5/31/85, Register 94; am 7/23/88, Register 107; am 6/14/90, Register 115; am 7/26/90, Register 115; am 8/2/90, Register 115; am 5/2/92, Register 122; am 6/2/95, Register 134; am 6/2/96, Register 138; am 12/8/96, Register 140; am 5/31/98, Register 146; am 3/13/2004, Register 169; am 5/26/2006, Register 178; am 8/8/2007, Register 183; add'l am 8/8/2007, Register 183; am 8/15/2008, Register 187; am 5/23/2009, Register 190; am 12/5/2009, Register 192; am 4/28/2011, Register 198; am 7/26/2015, Register 215; am 1/1/2016, Register 216; am 5 / 25 /2017, Register 223; 8 am 11 / 5 / 2017, Register 224)

<b>Authority:</b>	AS 16.05.020	AS 16.05.060	AS 16.05.690
	AS 16.05.050	AS 16.05.671	

# MEMORANDUM

## State of Alaska Department of Law

**To:** The Honorable Byron Mallott  
Lieutenant Governor  
(hand delivery)

**Date:** October 2, 2017

**File No.:** JU2017200482

**Tel. No.:** 465-3600

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

**Re:** Department of Fish and Game  
Regulations re: Definition of  
Tender Vessel (5 AAC 39.130)

We have reviewed the attached regulations from the Department of Fish and Game against the statutory standards of the Administrative Procedure Act. The regulations concern the definition of a tender vessel.

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 August 14, 2017 public notice and the September 18, 2017 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 minor technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SRP:ljm  
cc w/enc: (via email)

Honorable Sam Cotten, Commissioner, Dept. of Fish and Game  
Glenn Haight, Executive Director, Board of Fisheries, Dept. of Fish and Game  
Scott Kelley, Director, Div. of Commercial Fisheries, Dept. of Fish and Game  
Forrest Bowers, Deputy Director, Div. of Commercial Fisheries, Dept. of Fish and Game  
Tom Brookover, Director, Div. of Sport Fisheries, Dept. of Fish and Game  
Tom Taube, Deputy Director, Div. of Sport Fisheries, Dept. of Fish and Game  
Lisa Olson, Deputy Director, Div. of Subsistence, Dept. of Fish and Game  
Frances Leach, Fishery Regulations Program Coordinator, AAC Contact, Dept. of Fish and Game  
Jennifer Shriver, Research Analyst, Div. of Commercial Fisheries, Dept. of Fish and Game  
Kathleen Jones, Data Processing Manager, Div. of Commercial Fisheries, Dept. of Fish and Game  
Enforcement Commander, Div. of Wildlife Troopers, Dept. of Public Safety  
Seth Beausang, Assistant Attorney General, Natural Resources Section



**NOTICE OF PROPOSED CHANGES IN THE DEFINITION OF TENDER VESSEL IN  
RELATION TO REPORTS REQUIRED OF FISHERMEN, PROCESSORS, BUYERS,  
EXPORTERS, AND OPERATORS OF CERTAIN COMMERCIAL FISHING VESSELS;  
TRANSPORTING REQUIREMENTS IN THE REGULATIONS OF THE  
DEPARTMENT OF FISH AND GAME**

**BRIEF DESCRIPTION**

The Department of Fish and Game proposes changes to regulations relating to a definition of tender vessel in 5 AAC 39.130.

The Department of Fish and Game proposes to adopt regulation changes in Title 5 of the Alaska Administrative Code, to include a definition of tender vessel:

**5 AAC 39.130. Reports required of fishermen, processors, buyers, exporters, and operators of certain commercial fishing vessels; transporting requirements,** is proposed to be changed to add a definition of tender vessel.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Jennifer Shriver, Research Analyst III, Department of Fish and Game, P.O. Box 115526, Juneau, AK 99811-5526. Additionally, the Department of Fish and Game will accept comments by facsimile at (907) 465-4753 and by electronic mail at [Jennifer.shriver@alaska.gov](mailto:Jennifer.shriver@alaska.gov). The comments must be received no later than 5:00 p.m. on September 14, 2017.

You may submit written questions relevant to the proposed action to Jennifer Shriver, Research Analyst III, Department of Fish and Game, P.O. Box 115526, Juneau, AK 99811-5526, [Jennifer.shriver@alaska.gov](mailto:Jennifer.shriver@alaska.gov). The questions must be received at least 10 days before the end of the public comment period. The Department of Fish and Game will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System. The Department of Fish and Game may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Jennifer Shriver at (907) 465-6133 no later than September 8, 2017 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Jennifer Shriver, Research Analyst III, at the mailing address, telephone number or email address above.

After the public comment period ends, the Department of Fish and Game will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further

notice, or decide to take no action. 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.**

**Statutory Authority:** AS 16.05.020; AS 16.05.050

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 16.05.020; AS 16.05.050, AS 16.05.671, AS 16.05.690, and AS 16.05.060

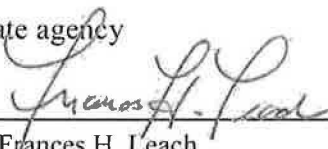
**Fiscal Information:** The proposed regulation changes are not expected to require an increased appropriation.

DATE: August 14, 2017

A handwritten signature in dark ink, appearing to read 'MS Kelley', is written over a horizontal line.

Scott Kelley, Director  
Division of Commercial Fisheries  
Department of Fish and Game

ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))<sup>1</sup>

1. Adopting agency: Department of Fish and Game
2. General subject of regulation: Definition of tender
3. Citation of regulation (may be grouped): 5 AAC 39.130
4. Department of Law file number, if any: JU2017200482
5. Reason for the proposed action: Recover costs of permit processing and issuance.
6. Appropriation/Allocation: Natural Resources.
7. Estimated annual cost to comply with the proposed action to:  
  
A private person: \$0  
Other state agencies: \$0  
A municipality: \$0
8. Cost of implementation to the state agency and available funding (in thousands of dollars): \$0.
9. The name of the contact person for the regulation:  
  
Name: Jennifer Shriver  
Title: Research Analyst III  
Address: P.O. Box 115526  
Juneau, AK 99811-5526  
Telephone: (907) 465-4753  
E-mail address: Jennifer.shriver@alaska.gov
10. The origin of the proposed action: Staff of state agency
11. Date: August 14, 2017      Prepared by:   
Name: Frances H. Leach  
Title: Regulations Program Coordinator  
Telephone: (907) 465-6124



**AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION**

I, Frances H. Leach, Regulations Specialist Commercial Fisheries Division, of the Department of Fish and Game, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 5 AAC 39 dealing with adding a definition of tender vessel for reports required of fishermen, processors, buyers, exporters, and operators of certain commercial fishing vessels; and for transporting requirements, has been given by being

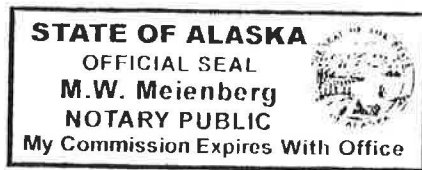
- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulations;
- (5) electronically transmitted to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Legislative 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);
- (8) furnished electronically, along with a copy of the proposed regulations, to the Legislative Affairs Agency, the chair of the Resources Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

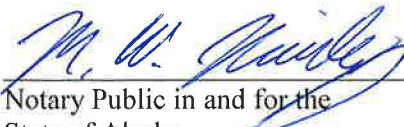
As required by AS 44.62.190(d), additional regulations notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulations notice information also has been posted on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

Date: 9/26/17  
Juneau, Alaska

  
\_\_\_\_\_  
Frances H. Leach  
Regulations Specialist - Commercial Fisheries  
Alaska Department of Fish and Game

SUBSCRIBED AND SWORN TO before me this 26 day of September, 2017.



  
\_\_\_\_\_  
Notary Public in and for the  
State of Alaska


My commission expires: with office.

**AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT**

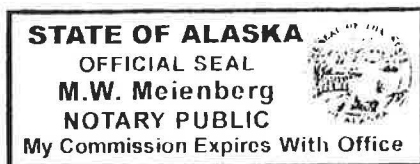
I, Jennifer Shriver, Research Analyst III - Commercial Fisheries, of the Department of Fish and Game, being duly sworn, state the following:

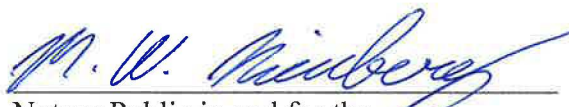
In compliance with AS 44.62.215, the Department of Fish and Game has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Alaska Department of Fish and Game regulations on adding a definition of tender vessel for reports required of fishermen, processors, buyers, exporters, and operators of certain commercial fishing vessels; and for transporting requirements.

Date: 9/26/17  
Juneau, Alaska

  
\_\_\_\_\_  
Jennifer Shriver  
Research Analyst III - Commercial Fisheries  
Alaska Department of Fish and Game

SUBSCRIBED AND SWORN TO before me this 26 day of September, 2017.



  
\_\_\_\_\_  
Notary Public in and for the  
State of Alaska

My commission expires: With office



270233  
0001409047  
\$333.68

# AFFIDAVIT OF PUBLICATION

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Joleesa Stepetin  
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

August 14, 2017

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

*Joleesa Stepetin*

Subscribed and sworn to before me  
this 14th day of August, 2017

*Britney Thompson*

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 CHANGES IN THE DEFINITION OF TENDER VESSEL IN RELATION TO REPORTS REQUIRED OF FISHERMEN, PROCESSORS, BUYERS, EXPORTERS, AND OPERATORS OF CERTAIN COMMERCIAL FISHING VESSELS; TRANSPORTING REQUIREMENTS IN THE REGULATIONS OF THE DEPARTMENT OF FISH AND GAME

The Department of Fish and Game proposes to adopt regulation changes in Title 5 of the Alaska Administrative Code, to include a definition of tender vessel:

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**Statutory Authority:** AS 16.05.020; AS 16.05.050

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 16.05.020; AS 16.05.050, AS 16.05.671, AS 16.05.690, and AS 16.05.060

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

DATE: 8/14/17

Scott Kelley, Director  
Division of Commercial Fisheries  
Department of Fish and Game

Published: August 14, 2017