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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Shellene Hutter
Department of Fish and Game

FROM: Scott Meriwether, Office of the Lieutenant Governor
465.4081

DATE: July 11, 2018

RE: Filed Permanent Regulations: Board of Fisheries

A handwritten signature in blue ink, likely of Scott Meriwether, the Office of the Lieutenant Governor.

Board of Fisheries Regulations re: March 6-9, 2018 Anchorage Meeting: Finfish and Shellfish Fisheries (5 AAC 01.220 - 5 AAC 58.022)

Attorney General File:	JU2017200513
Regulation Filed:	7/11/2018
Effective Date:	8/10/2018
Print:	227, October 2018

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

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

The attached 17 pages of regulations, dealing with finfish and shellfish fisheries in Alaska are certified to be a correct copy of the regulation changes that the Alaska Board of Fisheries adopted at its March 6-9 meeting 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:

6/27/18

Juneau, Alaska

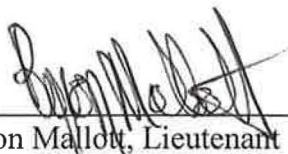


Charles O. Swanton, Deputy Commissioner
Department of Fish and Game

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on

July 11, 2018 at 1145 A.m., 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:

August 10, 2018

Register:

227, October 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



Title 5. Fish and Game.

Chapter 01. Subsistence Finfish Fishery.

Article 4. Yukon Area.

5 AAC 01.220(e)(1) is amended to read:

(1) in Subdistrict 4-A upstream from the mouth of Stink Creek, **and in**

Subdistricts 4-B and 4-C,

...

Publisher: The remainder of 5 AAC 01.220(e)(1) is unchanged.

(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)

Authority: AS 16.05.060 AS 16.05.251 AS 16.05.258

Chapter 02. Subsistence Shellfish Fishery.

Article 4. Cook Inlet Area.

5 AAC 02.310(b) is amended to read:

(b) In the subsistence taking of clams,

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

(2) there are no bag, possession, or size limits for clams, except that for littleneck and butter clams the bag and possession limit is 80 clams of either species or in combination and the minimum legal size is as follows:

(A) for littleneck clams, the minimum legal size is one and one-half inches across the widest width of the shell;

(B) for butter clams, the minimum legal size is two and one-half inches across the widest width of the shell;[.]

(3) all razor clams taken or possessed must be retained. (Eff. 7/25/82, Register 83; am 5/15/93, Register 126; am 5/6/94, Register 130; am 6/7/95, Register 135; am 9/29/95, Register 135; am 3/15/2008, Register 185; am 7/13/ 2012, Register 203; am 8 / 10 / 2018, Register 227)

Authority: AS 16.05.251 AS 16.05.258

Chapter 05. Yukon Area.

Article 2. Fishing Districts and Subdistricts.

5 AAC 05.200(a) is amended to read:

(a) District 1 consists of that portion of the Yukon River drainage from **a line extending northwest from Point Romanof at 63° 12.16' N. lat., 162° 49.72' W. long., to a point three nautical miles offshore at 63° 14.27' N. lat., 162° 54.40' W. long.,** [THE LATITUDE OF

POINT ROMANOF] extending south and west along the coast of the delta to a line approximately one nautical mile south of the mouth [TERMINUS] of the Black River from 62° 20.58' N. lat., 165° 22.66' W. long., to a point located three nautical miles offshore at 62° 22.67' N. lat., 165° 27.37' W. long., including the waters within three nautical miles seaward from any grassland bank within that area, and upstream from the mouth of the Black River to the northern edge of the mouth of the Anuk River and all waters of the Black River.

(In effect before 1982; am 4/14/82, Register 82; am 7/16/92, Register 123; am 5/29/93, Register 126; am 7/3/94, Register 130; am 7/12/96, Register 139; am 3/11/2001, Register 157; am 6/17/2001, Register 158; am 9/29/2001, Register 159; am 5/19/2010, Register 194; am 7/13/2012, Register 203; am 4/13/2013, Register 206; am 6/26/2016, Register 218; am 8 / 10 /2018, Register 227)

Authority: AS 16.05.251

Article 3. Salmon Fishery.

5 AAC 05.310(4) is amended to read:

(4) in District 6, the commissioner shall open the season by emergency order and close the season [ON OR BEFORE OCTOBER 1 AT 12:01 A.M.] by emergency order. (In effect before 1982; am 4/14/82, Register 82; am 6/30/83, Register 86; am 5/11/85, Register 94; am 4/2/88, Register 105; am 7/26/90, Register 115; am 7/16/92, Register 123; am 6/10/98,

Register 227, October 2018 FISH AND GAME

Register 146; am 6/17/2001, Register 158; am 9/29/2001, Register 159; am 8/10/2018,
Register 227)

Authority: AS 16.05.060 AS 16.05.251

5 AAC 05.330(a)(8) is amended to read:

(8) waters within three [ONE] nautical miles [MILE] seaward from any grassland bank in District 1.

(In effect before 1983; am 6/30/83, Register 86; am 5/11/85, Register 94; am 7/16/92, Register 123; am 4/13/2013, Register 206; am 8/10/2018, Register 227)

Authority: AS 16.05.251

5 AAC 05.350(2) is amended to read:

(2) waters farther than three nautical miles seaward from any grassland bank in District 1 [FROM APOON PASS EXTENDING WEST AND SOUTH TO A LINE EXTENDING SEAWARD FROM AN ADF&G REGULATORY MARKER LOCATED ON THE BEACH APPROXIMATELY ONE NAUTICAL MILE SOUTH FROM THE MOUTH OF BLACK RIVER];

5 AAC 05.350(3) is amended to read:

(3) all waters south and west of a line extending seaward in a northwestern direction from an ADF&G regulatory marker located on the beach approximately one nautical mile south of the mouth of Black River at 62° 20.58' N. lat., 165° 22.66' W. long. to a point located three nautical miles offshore at 62° 22.67' N. lat., 165° 27.37' W. long. [62° 27.61' N. lat., 165° 15.05' W. long.];

(In effect before 1982; am 4/14/82, Register 82; am 7/16/92, Register 123; am 7/3/94, Register 130; am 6/17/2001, Register 158; am 7/13/2012, Register 203; am 4/13/2013, Register 206; am 6/26/2016, Register 218; am 8 / 10 /2018, Register 227)

Authority: AS 16.05.251

5 AAC 05.360(i) is amended to read:

(i) if the department projects that the Yukon River king salmon abundance will be insufficient to achieve [ESCAPEMENTS ARE BELOW] the escapement goals or king salmon subsistence fishing is restricted in more than one district or portion of a district, the commissioner shall, by emergency order, close a fishery and immediately reopen a fishery during which king salmon may be retained, but not sold. If the department thereafter projects king salmon escapement goals will be met and king salmon subsistence fishing is not restricted in the district or portion of the district where commercial salmon fishing is open, and reasonable opportunity for subsistence uses of king salmon has been or will be provided within the season, the commissioner may, by emergency order, open a commercial fishery during which king salmon incidentally taken may be sold.

5 AAC 05.360(j)(1) is amended to read:

(1) in Districts 1 and 2, to account for the uncertainty in the preseason king salmon run projection, if the preseason king salmon forecast indicates insufficient abundance to meet escapement goal objectives and subsistence harvest needs, the department shall manage the king salmon subsistence fishery conservatively and not open any salmon subsistence fishing periods during the first pulse of king salmon entering the districts;

(In effect before 1982; am 4/14/82, Register 82; am 8/5/88, Register 107; am 6/14/90, Register 115; am 6/10/98, Register 146; am 4/22/99, Register 150; am 6/17/2001, Register 158; am 12/29/2002, Register 164; am 7/31/2003, Register 167; am 5/19/2004, Register 170; am 8/5/2004, Register 171; am 5/19/2010, Register 194; am 4/13/2013, Register 206; am 8/10/ 2018, Register 227)

Authority: AS 16.05.060 AS 16.05.251

Chapter 27. Herring Fishery.

Article 10. Alaska Peninsula – Aleutian Islands Area (Registration Area M).

5 AAC 27.610(e)(2)(B) is amended to read:

(B) by purse seines, from 12:00 noon July 1 [15] through February 28.

(In effect before 1982; am 4/14/82, Register 82; am 4/16/83, Register 86; am 4/28/84, Register 90; am 5/11/85, Register 94; am 4/2/88, Register 105; am 4/7/90, Register 114; am 4/9/92, Register 122; am 5/2/92, Register 122; am 5/31/98, Register 146; am 4/5/2001, Register 158; am 8/10/ 2018, Register 227)

Authority: AS 16.05.060 AS 16.05.251

5 AAC 27.655(b) is amended to read:

(b) Except as otherwise provided in this subsection, the allocations of herring to the herring seine fishery and to the herring gillnet fishery under (a) of this section are independent of

each other. If the harvest by a fishery in a given year is greater than the amount allocated to that fishery under (a) of this section, the excess tonnage is subtracted from the following year's allocation to that fishery. If the harvest by a fishery in a given year is less than the amount allocated to that fishery under (a) of this section, no effect on future allocations to that fishery will occur. After July 5 [20], if the herring gillnet fishery has not harvested the herring gillnet fishery allocation, the remaining herring gillnet fishery allocation may be harvested in either the herring gillnet fishery or the herring seine fishery, except that if the harvest by the herring seine fishery exceeds the herring seine fishery allocation on or before July 5 [20], the excess amount harvested by the herring seine fishery will be subtracted from the remaining herring gillnet fishery allocation for that year after July 5 [20] to establish the remaining allocation that may be harvested by either of the fisheries. If the harvest by the herring seine fishery exceeds the remaining allocation established under this subsection after July 5 [20], the excess amount harvested by the herring seine fishery will be subtracted from the following year's herring seine fishery allocation specified in (a) of this section.

(Eff. 4/5/2001, Register 158; em am 5/15/2003 - 9/11/2003, Register 166; am 6/4/2004, Register 170; am 5/16/2010, Register 194; am 6/5/2016, Register 218; am 8/10/2018, Register 227)

Authority: AS 16.05.050 AS 16.05.251

Chapter 32. Dungeness Crab Fishery.

Article 9. Registration Area J (Westward).

5 AAC 32 is amended by adding a new section to read:

5 AAC 32.415. Operation of pot gear for Registration Area J. (a) All pot gear used for commercial Dungeness crab fishing in Registration Area J shall:

- (1) be removed from the water at least once within a 14-day period; or
- (2) have all bait and bait containers removed and all doors secured fully open.

(Eff. 8 / 10 / 2018, Register 227)

Authority: AS 16.05.251

Chapter 34. King Crab Fishery.

Article 11. Registration Area O (Aleutian Islands Area).

5 AAC 34.612(b) is amended to read:

(b) The department may **modify** [REDUCE] the harvest levels in (a) of this section based on the best scientific information available, in considering the reliability of estimates and performance measures, uncertainty as necessary to avoid overfishing, and any other factors necessary to be consistent with sustained yield principles. (Eff. 9/12/2008, Register 187; am 7/13/2012, Register 203; am 8 / 10 / 2018, Register 227)

Authority: AS 16.05.251

Chapter 38. Miscellaneous Shellfish Fishery.

Article 2. General Specifications and Restrictions.

5 AAC 38.078(f) is amended to read:

(f) Notwithstanding 5 AAC 38.076(c), if the commissioner determines that it is necessary for management and conservation purposes, the commissioner may require a vessel operator to register as provided by 5 AAC 38.076 for either the state waters or the federal waters of the exclusive economic zone. The operator of a participating vessel must change its registration before fishing for weathervane scallops in different waters. The operator of a participating vessel may change registration only by contacting the designated department office in the area responsible for management of the fishery for which the vessel is currently registered during business hours of 8:00 a.m. through 5:00 p.m., Monday through Friday, except a state holiday, unless otherwise specified by the department. Before changing registration, the vessel operator shall ensure that all harvested scallops are shucked, **except for scallops to be delivered live under 5 AAC 38.327(f)**, and the harvest weight is reported to the department.

(Eff. 4/1/2014, Register 209; am 8/10/2018, Register 227)

Authority: AS 16.05.060 AS 16.05.251

Article 5. Registration Area A (Southeastern Alaska).

5 AAC 38.140(h) is amended to read:

(h) The department shall establish a guideline harvest level for each area open to the harvest of sea cucumbers. The guideline harvest level shall be based on population estimates from the department's biomass assessment, and shall be calculated as a product: Guideline Harvest Level = 3 x CF x GF x M x P, where:

CF = 0.4 scaling factor relating maximum sustainable fishing mortality to
unexploited population size;

GF = 0.6 [0.5] correction factor to allow for errors in assumptions upon which the surplus production model is based;

M = 0.32 estimated instantaneous mortality rate for sea cucumbers;

P = most recent biomass estimate, taken as the lower bound of the one-sided 90 percent confidence interval.

The guideline harvest level includes a factor of three to account for a two-year closure under (c) of this section. **If the commissioner receives new information about sea cucumber productivity or if the commissioner determines that modifying the guideline harvest level will contribute to conservation, law enforcement, waste reduction, or promote development of the fishery, the commissioner may modify the guideline harvest level.**

(Eff. 2/27/91, Register 117; am 4/15/94, Register 130; am 9/28/97, Register 143; am 12/26/97, Register 144; am 5/8/98, Register 146; am 10/12/2000, Register 156; am 3/11/2001, Register 157; am 7/18/2003, Register 167; am 12/1/2004, Register 172; am 5/26/2006, Register 178; am 7/29/2009, Register 191; am 5/11/2012, Register 202; am 5/9/2015, Register 214; am 8/27/2016, Register 219; am 6/17/2018, Register 226; am 8/10/2018, Register 227)

Authority: AS 16.05.060 AS 16.05.251

Article 8. Registration Area H (Cook Inlet).

5 AAC 38.327 is amended by adding a new subsection to read:

(f) Live scallops may be delivered providing that:

(1) the department must be notified of the estimated weight of both live and shucked product 24 hours prior to delivery. ^{at} The vessel operator must record in the logbook the number of live scallops delivered;

(2) when reporting the pounds of scallop meat harvested as specified in 5 AAC 38.076(p), an average weight of scallops sampled in (c) of this section will be applied to the scallops delivered live. (Eff. 8/23/2009, Register 191; am 8 / 10 / 2018, Register 227)

Authority: AS 16.05.251

5 AAC 38.411 is amended to read:

5 AAC 38.411. Fishing seasons for sea cucumbers in the Chignik, South Peninsula, Eastern Aleutian, Western Aleutian, and Bering Sea districts of Registration Area J. In the Chignik, South Peninsula, Eastern Aleutian, Western Aleutian, and Bering Sea districts of Registration Area J, a person may take sea cucumbers only under the authority of a permit issued by the commissioner under 5 AAC 38.062, [AND] only [FROM OCTOBER 1 THROUGH APRIL 30] during fishing periods established by emergency order [,] and only from:

(1) September 15 through April 30 in the Chignik District;

(2) October 1 through April 30 in the South Peninsula, Eastern Aleutian, Western Aleutian, and Bering Sea districts [EXCEPT THAT IN THE CHIGNIK DISTRICT, A PERSON MAY TAKE SEA CUCUMBERS ONLY UNDER THE AUTHORITY OF A PERMIT ISSUED BY THE COMMISSIONER AND ONLY FROM SEPTEMBER 15 THROUGH APRIL 30 DURING A FISHING PERIOD ESTABLISHED BY EMERGENCY

ORDER]. (Eff. 9/12/97, Register 143; am 5/8/98, Register 146; am 7/1/2015, Register 214; am 8/10/2018, Register 227)

Authority: AS 16.05.060 AS 16.05.251

5 AAC 38 is amended to add a new section to read:

5 AAC 38.416. Kodiak District Sea Cucumber Management Plan in Registration

Area J. (a) A permit described in 5 AAC 38.062 is not required for the taking of sea cucumbers in the Kodiak District, as specified in this section.

(b) Before harvesting sea cucumbers, a person shall validly register with the department.

(c) Sea cucumbers may be taken from October 1 through April 30 during fishing periods established by emergency order.

(d) Sea cucumbers may only be taken with diving gear operated in accordance with 5 AAC 38.054.

(e) A person harvesting sea cucumbers shall maintain an accurate logbook of all diving operations,

(1) a logbook must:

(A) include the date, the specific location of harvest by latitude and longitude, the number of individual sea cucumbers harvested, the number of pounds of sea cucumbers harvested, the minimum and maximum depth of each dive, the bottom time duration of each dive, and any other information required by the department for conservation and management;

(B) be delivered to a local representative of the department within 48

hours following the closure of a fishing period, unless the permit holder has been delayed due to extraordinary circumstances beyond their control and contacted a local representative of the department within 48 hours following the closure of a fishing period, and the representative has granted additional time;

(2) a person shall not make a false entry in the logbook.

(f) Opening of a sea cucumber fishing period will be delayed for 24 hours if the National Weather Service marine forecast for Shelikof Strait (PKZ138) or Shuyak Island to Sitkinak Island (PKZ132) issued at 4:00 a.m. on the day before the scheduled opening date contains gale warnings for that day. If, after the initial delay, the following day's 4:00 a.m. forecast contains a gale warning for that day, the fishing period will be delayed for an additional 24 hours. The period opening delays may continue on a rolling 24-hour basis until gale warnings are not forecasted.

(g) Notwithstanding (f) of this section,

(1) if a fishing period is not scheduled for the Westside Section of the Kodiak District, gale warnings for Shelikof Strait (PKZ138) will not delay the fishing period;

(2) if fishing periods are not scheduled for the Eastside or Southeast Sections of the Kodiak District, gale warnings for Shuyak Island to Sitkinak Island (PKZ132) will not delay the fishing period. (Eff. 8/10/2018, Register 227)

Authority: AS 16.05.060 AS 16.05.251

5 AAC 38.420(b) is repealed:

(b) Repealed 8/10/2018.

(In effect before 1988; am 6/27/93, Register 126; am 7/23/94, Register 131; am 8/23/2009, Register 191; am 9/19/2009, Register 191; am 7/13/2012, Register 203; am 8/10/ 2018, Register 227)

Authority: AS 16.05.251

5 AAC 38.425(1) is amended to read:

(1) all waters of Registration Area J around Trinity Islands as depicted in Figure 5 to 50 C.F.R. Part 679 (revised February 18, 2014), and as enclosed by a line from Low Cape at 56° 59.40' N. lat., 154° 31.10' W. long., to a point offshore at 57° 00.00' N. lat., 155° 00.00' W. long., to 56° 17.00' N. lat., 155° 00.00' W. long., to 56° 17.00' N. lat., 153° 52.00' W. long., to Cape Sitkinak at 56° 33.50' N. lat., 153° 52.00' W. long., to the east point of Twoheaded Island at 56° 54.50' N. lat., 153° 32.50' W. long., to 56° 56.00' N. lat., 153° 35.50' W. long., to 56° 59.40' N. lat., 154° 31.10' W. long. [SOUTH OF THE LATITUDE OF CAPE IKOLIK AT 57° 17.40' N. LAT., EAST OF A LINE EXTENDING SOUTH FROM THE ALASKA PENINSULA (NEAR KILOKAK ROCKS) AT 156° 20.22' W. LONG., WEST OF A LINE ACROSS SITKALIDAK STRAIT AT 153° 16.00' W. LONG., AND WEST OF A LINE EXTENDING SOUTH FROM CAPE BARNABAS AT 152° 52.20' W. LONG.];

5 AAC 38.425(2) is amended to read:

(2) all waters of Alaska on the southeast side of Kodiak Island south of a line extending from Cape Trinity at 56° 44.80' N. lat., 154° 08.90' W. long., to a point offshore at 55° 23.23' N. lat., 156° 20.22' W. long.; [EAST OF A LINE ACROSS SITKALIDAK NARROWS ALONG 153° 16.00' W. LONG., EAST OF A LINE EXTENDING SOUTH

FROM CAPE BARNABAS AT 152° 52.20' W. LONG.], west of a line from Narrow Cape at 57° 25.95' N. lat., 152° 19.13' W. long. to the northernmost tip of Ugak Island at 57° 23.63' N. lat., 152° 17.47' W. long., and west of a line extending south from the southernmost tip of Ugak Island at 152° 18.76' W. long.;

(In effect before 1981; am 6/28/81, Register 78; am 6/30/84, Register 90; am 7/12/86, Register 99; am 9/19/90, Register 115; am 7/23/94, Register 131; am 9/12/97, Register 143; am 7/5/2000, Register 155; am 2/16/2006, Register 177; am 8/23/2009, Register 191; am 7/13/2012, Register 203; am 2/23/2014, Register 209; am 2/22/2015, Register 213; am 8/10 / 2018,

Register 227)

Authority: AS 16.05.251

Chapter 55. Prince William Sound Area.

5 AAC 55.022 is amended by adding a new subsection to read:

(c) Beginning January 1, 2020, a person sport fishing from a vessel when releasing a rockfish shall immediately release the fish and use a deep water release mechanism to return the fish to the depth it was hooked or to a depth of at least 100 feet. A vessel must have at least one functional deep water release mechanism on board and readily available for use when sport fishing activities are taking place. Upon request, a deep water release mechanism must be presented to a local representative of the department or a peace officer of the state. In this subsection, “deep water release mechanism” means a device designed to return a rockfish to near the bottom where it was hooked, or to a specified depth, and to assist the fish in recompression and to improve the fish’s chance of survival. (Eff. 5/4/94, Register 130; am 9/5/97, Register 143;

Register 227, October 2018 FISH AND GAME

am 3/16/2000, Register 153; am 7/5/2000, Register 155; am 9/30/2000, Register 155; am 5/11/2003, Register 166; am 3/13/2004, Register 169; am 12/1/2004, Register 172; am 3/30/2006, Register 177; am 7/1/2006, Register 178; am 4/24/2009, Register 190; am 8/23/2009, Register 191; am 3/24/2012, Register 201; am 6/1/2013, Register 206; am 3/29/2015, Register 213; am 7/22/2017, Register 223; am 3/29/2018, Register 225; am 8 / 10 / 2018, Register 227)

Authority: AS 16.05.060 AS 16.05.251

Chapter 58. Cook Inlet – Resurrection Bay Saltwater Area.

5 AAC 58.022(a)(14) is amended to read:

(14) razor clams: may be taken from January 1 – December 31 as follows:

(A) from the mouth of the Kenai River to the southernmost tip of the Homer Spit: the bag limit is the first 60 clams **taken or possessed** [HARVESTED]; the possession limit is 120 clams;

(B) on the remaining beaches of Cook Inlet – Resurrection Bay Area: no bag, possession, or size limits; **all clams taken or possessed must be retained;**
(Eff. 2/25/98, Register 145; am 3/5/99, Register 149; am 6/13/99, Register 150; am 5/18/2000, Register 154; am 7/5/2000, Register 155; am 3/8/2002, Register 161; am 8/24/2002, Register 163; am 12/29/2002, Register 164; am 6/5/2003, Register 166; am 3/13/2004, Register 169; am 12/1/2004, Register 172; am 2/13/2005, Register 173; am 8/14/2005, Register 175; am 7/1/2006, Register 178; am 3/15/2008, Register 185; am 9/12/2008, Register 187; am 4/24/2009, Register 190; am 8/23/2009, Register 191; am 3/2/2011, Register 197; am 7/13/2012, Register 203; am

Register 227, October 2018 FISH AND GAME

6/1/2013, Register 206; am 2/23/2014, Register 209; am 3/22/2014, Register 209; am 6/27/2014, Register 210; am 9/24/2014, Register 211; am 3/15/2017, Register 221; am 7/22/2017, Register 223; am 8 / 10 / 2018, Register 227)

Authority: AS 16.05.060 AS 16.05.251

MEMORANDUM

State of Alaska Department of Law

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

Date: July 9, 2018

File No.: JU2017200513

Tel. No.: 465-3600

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

Re: Board of Fisheries Regulations re:
March 6-9, 2018 Anchorage Meeting;
Finfish and Shellfish Fisheries
(5 AAC 01.220 – 5 AAC 58.022)

We have reviewed the attached regulation changes from the Board of Fisheries against the statutory standards of the Administrative Procedure Act. The regulations are regarding various finfish and shellfish fisheries in Alaska.

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 original October 29, 2017 affidavit of newspaper publication for these regulations was filed with the Department of Law project file JU2017200511 Part 1, Register 225, (April 2018); we have included a photocopy of that affidavit of publication.

The October 29, 2017 public notice and the June 27, 2018 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 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, Division of Commercial Fisheries, Dept. of Fish and Game

Forrest Bowers, Deputy Director, Division of Commercial Fisheries, Dept. of Fish and Game

Tom Brookover, Director, Division of Sport Fisheries, Dept. of Fish and Game

Tom Taube, Deputy Director, Division of Sport Fish, Dept. of Fish and Game

Lisa Olson, Deputy Director, Division of Subsistence, Dept. of Fish and Game

Shellene Hutter, Fishery Regulations Program Coordinator, AAC Contact, Dept. of Fish and Game

Enforcement Commander, Division of Wildlife Troopers, Dept. of Public Safety

Aaron Peterson, Assistant Attorney General, Office of Special Prosecution

Seth Beausang, Chief Assistant Attorney General, Natural Resources Section, Dept. of Law

Brad Meyen, Assistant Attorney General, Natural Resources Section, Dept. of Law

NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE ALASKA BOARD OF FISHERIES

The Alaska Board of Fisheries proposes to adopt, amend, or repeal regulation changes in Title 5 of the Alaska Administrative Code, dealing with fishery and aquatic plant resources in the areas designated below, including the following regulations:

1. IN THE PRINCE WILLIAM SOUND AREA (INCLUDING THE UPPER COPPER RIVER AND UPPER SUSITNA RIVER AREA) FINFISH FISHERIES; SOUTHEASTERN ALASKA AND YAKUTAT AREAS FINFISH AND SHELLFISH FISHERIES, INCLUDING ALL SOUTHEASTERN ALASKA AND YAKUTAT AREAS CRAB, SHRIMP, AND MISCELLANEOUS SHELLFISH FISHERIES; AND STATEWIDE DUNGENESS CRAB, SHRIMP, AND MISCELLANEOUS SHELLFISH (EXCEPT SOUTHEASTERN ALASKA AND YAKUTAT AREAS) FISHERIES:
 - A. In the **commercial, sport, guided sport, personal use, and aquatic plant fisheries**: fishing seasons, periods, and opening and closing times; bag, possession, size, sex, age, and harvest limits; harvest levels, thresholds, goals, and quotas; definitions; bycatch provisions; districts, subdistricts, sections, subsections, areas, and other management boundaries; locations open and closed to fishing; methods and means; gear and vessel restrictions, including marking and operational requirements; registration and permit requirements; registration areas (including nonexclusive, exclusive and superexclusive registration areas); recordkeeping and marking requirements; management plans for conservation and development, including escapement, inriver, and other management goals; landing requirements; provisions for development and allocation among beneficial uses; guiding principles; provisions to regulate, require, restrict or prohibit the retention, tendering, transportation, dispatch, possession, sale, release, or purchase of fish; methods of release; registration, licensing, reporting, and other requirements for sport fishing guides and operators, guided anglers, catchers, processors, buyers, and transporters; onboard observer requirements; fish storage and inspection requirements.
 - B. In the **subsistence fisheries**: identification or modification of customary and traditional subsistence uses and amounts reasonably necessary for subsistence; fishing seasons, periods, and opening and closing times; bag, possession, size, sex, age, and harvest limits; definitions; districts, subdistricts, sections, subsections, areas, and other management boundaries; locations open and closed to fishing; methods and means; gear and vessel restrictions, including marking and operational requirements; registration and permit requirements; recordkeeping and marking requirements; management plans for conservation and development, including escapement, inriver, and other management goals; regulations for the subsistence priority; landing requirements; provisions for development and allocation among beneficial uses and users, including creating and regulating tier II fisheries; guiding principles; otherwise establish, regulate, change, or adjust subsistence fisheries.
2. The following topic is added to the Prince William Sound Finfish meeting in Valdez, December 1-5, 2017:

- A. IN THE YUKON AREA SUBSISTENCE FINFISH FISHERY: Decrease the size of the area closed to subsistence fishing through the ice for northern pike on the Chatanika River (*newly assigned Proposal 228, formerly ACR #1*).
3. The following topics are added to the Southeast and Yakutat Finfish and Shellfish meeting in Sitka, January 11-23, 2018:
 - A. IN THE SOUTHEASTERN ALASKA AREA PERSONAL USE FISHERY: Require a permit for the taking of king crab for personal use and amend the bag and possession limits (*newly assigned Proposal 234 which was accepted as a board generated proposal at the 2017 Work Session*).
 - B. IN THE SOUTHEASTERN ALASKA AREA DUNGENESS CRAB COMMERCIAL FISHERY: Repeal the Southeastern Alaska Area Dungeness Crab Fisheries Management Plan and amend the fishing seasons (*newly assigned Proposal 235 which was accepted as a board generated proposal at the 2017 Work Session*).
4. The following topics are added to the Statewide Dungeness, Shrimp and Other Miscellaneous Shellfish meeting in Anchorage, March 6-9, 2018:
 - A. IN THE ALEUTIAN ISLANDS AREA KING CRAB COMMERCIAL FISHERY: Repeal fixed total allowable catch (TAC) and adopt an Aleutian Islands Area golden king crab harvest strategy that uses biomass estimates generated from the Alaska Department of Fish and Game stock assessment model to establish TAC (*newly assigned Proposal 229, formerly ACR #2*).
 - B. IN THE YUKON AREA SUBSISTENCE AND COMMERCIAL FINFISH FISHERIES:
 - i. Allow use of drift gillnets to harvest salmon for subsistence uses in Yukon Area Subdistricts 4-B and 4-C (*newly assigned Proposal 230, formerly ACR #13*).
 - ii. Repeal the prohibition on subsistence fishing in Yukon Area Districts 1 and 2 during the first pulse of king salmon (*newly assigned Proposal 231, formerly ACR #14*).
 - iii. Consider criteria to allow sale of Yukon River king salmon caught incidentally during open commercial fishery periods for other salmon species (*newly assigned Proposal 232, formerly ACR #15*).
 - iv. Clarify Yukon Area District 1 boundary, allow set gillnets to be operated up to three nautical miles seaward from any grassland bank in District 1, and reduce waters closed to commercial fishing for salmon in District 1 (*newly assigned Proposal 233, formerly ACR #18*).

- C. IN THE ALASKA PENINSULA-ALEUTIAN ISLANDS AREA COMMERCIAL HERRING FISHERY: Increase the Dutch Harbor food and bait herring fishery allocation, eliminate the Dutch Harbor food and bait herring fishery allocations between gear types, and change the season for the Dutch Harbor food and bait herring fishery (*newly assigned Proposal 236 which was accepted as a board generated proposal at the 2017 Work Session*).

For a copy of the proposed regulation changes contact the Alaska Department of Fish and Game, (ADF&G) Boards Support Section, P.O. Box 115526, Juneau, AK 99811-5526, (907) 465-4110, or www.boardoffisheries.adfg.alaska.gov.

Anyone interested in, or affected by, the subject matter contained in this legal notice should make written or oral comments to have their views considered by the board. You may comment on the proposed regulation changes, including the potential costs to the private persons of complying with the proposed changes, by submitting written comments limited to no more than 100 single-sided or 50 double-sided pages to the ADF&G, Boards Support Section, at P.O. Box 115526, Juneau, AK 99811-5526. Additionally, the Boards Support Section will accept comments by facsimile at (907) 465-6094, by email to dfg.bof.comments@alaska.gov (PDF format only), or online at www.boardoffisheries.adfg.alaska.gov. Individuals and advisory committees directing public comment at an ADF&G office or personnel other than as prescribed above are advised that such comments will not be received and entered as public comment.

Comments are generally due no later than two weeks prior to the meeting during which the topics are considered. Unless otherwise specified for a particular meeting in a published notice, written comments exceeding the page limit from any one individual or group relating to proposals at any one meeting will not be accepted. Written comments limited to 10 single-sided or 5 double-sided pages in length from any one individual or group are accepted after the two-week deadline and inserted in board member workbooks at the beginning of the meeting, and are also accepted during the meeting and until the board begins proposal deliberations.

ADDITIONAL PUBLIC COMMENT STANDARD:

Once a meeting begins and during a meeting written comments from any one individual or group may be submitted by hand delivery at any time if the required number of copies are provided (typically in excess of 25 copies). Individuals not in attendance at a meeting may fax comments to 907-465-6094. As a practical matter, comments submitted after the board begins deliberations on relevant proposals are likely to receive less consideration than comments submitted earlier.

Once proposal deliberations begin, the board will **ONLY** accept written comments on the topics being considered at the meeting from any one individual or group that are not more than five single-sided pages, or the equivalent number of double-sided pages, unless specific information is requested by the board that requires more pages than allowed under this standard.

Each meeting will generally start at 8:30 a.m. on the first day of the meeting dates below unless the board directs a different start time. The public oral testimony period of each regulatory meeting begins after staff reports and continues until everyone who has signed up on a timely basis and is present at the meeting has an opportunity to be heard. The board will take oral testimony only from

those who register before the cut-off time announced by the board chair at each meeting. The length of oral statements may be limited to three minutes or less. Additional public hearings with board committees may be held during the meeting.

TENTATIVE MEETING SCHEDULE

Prince William Sound Finfish

December 1-5, 2017

Valdez Convention & Civic Center, Valdez

Comment deadline: November 17, 2017

Southeast and Yakutat Finfish & Shellfish

January 11-23, 2018

Harrigan Centennial Hall, Sitka

Comment deadline: December 28, 2017

Statewide (Except Southeast and Yakutat) Dungeness Crab, Shrimp, Other Miscellaneous Shellfish and Supplemental Issues

March 6-9, 2018

Egan Civic and Convention Center

Comment deadline: February 23, 2018

Any changes to meeting locations, dates or times, or rescheduling of topics or subject matter will be announced by news release. Please watch for these announcements in the news media or call (907) 465-4110. Please carefully review the **PROPOSAL INDEX** available for the meeting for specific proposals to be addressed by the board. Copies of the proposal indices are in the proposal book, available online at www.boardoffisheries.adfg.alaska.gov, and at the relevant meeting. The board may also include accepted agenda change requests as new proposals following its October 17-19, 2017 work session. Any additional proposals will be noticed and made available online and upon request.

Anyone interested in or affected by subsistence, personal use, commercial fishing, sport, guided sport, or aquatic plant regulations are hereby informed that the Board of Fisheries may consider any or all of the subject areas covered by this notice. Under AS 44.62.200(b), the board may review the full range of activities appropriate to any of the subjects listed in this notice. The board may make changes to the subsistence, personal use, sport, guided sport or commercial fishing regulations as may be required to ensure the subsistence priority in AS 16.05.258. On its own motion, after the public hearing, the board may adopt, amend, reject, supplement, or take no action on these subjects without further notice. In addition, the board may adopt other regulations necessary to implement, administer, or enforce the regulations adopted. **THE BOARD IS NOT LIMITED BY THE SPECIFIC LANGUAGE OR CONFINES OF THE ACTUAL PROPOSALS THAT HAVE BEEN SUBMITTED BY THE PUBLIC OR ADF&G.** 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.**

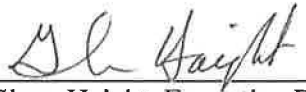
If you are a person with a disability who needs special accommodation in order to participate in the

proposed regulation process, please contact Glenn Haight at (907) 465-4110 no later than two weeks prior to the beginning of each meeting to ensure necessary accommodations can be provided.

Statutory Authority: AS 16.05 - AS 16.20, AS 16.40

Statutes Being Implemented, Interpreted, or Made Specific: AS 16.05 - AS 16.20, AS 16.40

Fiscal Information: The proposed regulatory actions are not expected to require an increased appropriation.



Glenn Haight, Executive Director
Alaska Board of Fisheries

10/27/2017
Date

ADDITIONAL REGULATIONS NOTICE INFORMATION

(AS 44.62.190(g))

1. Adopting Agency: Alaska Board of Fisheries.
 2. General subject of regulations: IN THE PRINCE WILLIAM SOUND AREA (INCLUDING THE UPPER COPPER RIVER AND UPPER SUSITNA RIVER AREA) FINFISH FISHERIES; SOUTHEASTERN ALASKA AND YAKUTAT AREAS FINFISH AND SHELLFISH FISHERIES, INCLUDING ALL SOUTHEASTERN ALASKA AND YAKUTAT AREAS CRAB, SHRIMP, AND MISCELLANEOUS SHELLFISH FISHERIES; AND STATEWIDE DUNGENESS CRAB, SHRIMP, AND MISCELLANEOUS SHELLFISH (EXCEPT SOUTHEASTERN ALASKA AND YAKUTAT AREAS) FISHERIES.
 3. Citation of regulations: 5 AAC 01 - 5 AAC 77.
 4. Department of Law file number (if any):
 - JU2017200511 – Prince William Sound Finfish
 - JU2017200512 – Southeast and Yakutat Finfish and Shellfish
 - JU2017200513 – Statewide Dungeness Crab, Shrimp, Miscellaneous Shellfish and Supplemental Issues
 5. Reason for proposed actions: Implement, interpret, or make specific the provisions of AS 16.05 - AS 16.20, AS 16.40.
 6. Appropriation/Allocation: Natural Resources and all RDUs
 7. Cost of implementation to the state agency and available funding: It is not possible to estimate the costs. However, these actions are not expected to require any additional costs.
 8. The name of the contact person for the regulations:

Glenn Haight, Executive Director
Alaska Board of Fisheries
PO Box 115526
Juneau, AK 99811-5526
(907) 465-4110
Email: glenn.haight@alaska.gov
 9. The origin of the proposed action:
 - ☒ staff or state agency
 - ☒ general public
 10. Date: October 27, 2017
- Prepared by:
Glenn Haight, Executive Director
Alaska Board of Fisheries
(907) 465-4110

**AFFIDAVIT OF NOTICE OF PROPOSED ADOPTION OF REGULATIONS
AND FURNISHING OF ADDITIONAL INFORMATION**

I, Glenn Haight, Executive Director of the Alaska Board of Fisheries, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 5 AAC dealing with Alaska finfish and shellfish fisheries 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).

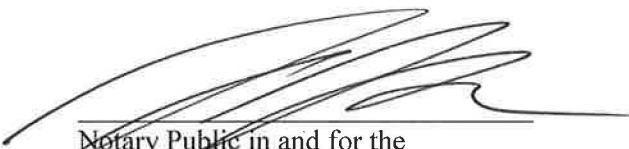
As required by AS 44.62.190(g), additional regulations notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulations notice information also has been posted on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

DATE: June 7, 2018
Juneau, Alaska



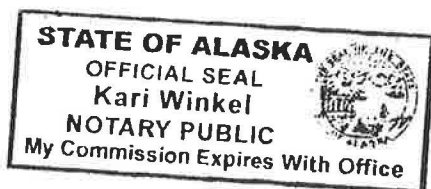
Glenn Haight, Executive Director
Alaska Board of Fisheries

SUBSCRIBED AND SWORN TO before me this 7 day of June, 2018.



Notary Public in and for the
State of Alaska

My commission expires: w/office



AFFIDAVIT OF ORAL HEARING

I, Glenn Haight, Executive Director of the Alaska Board of Fisheries, being sworn, state the following:

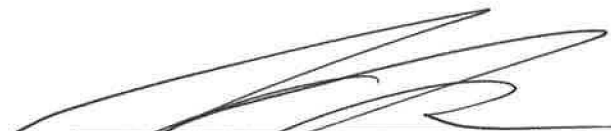
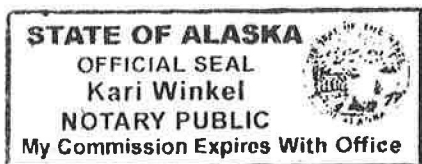
On March 6-9, 2018, at Egan Center located at 555 W 5th Ave Anchorage Alaska, the Alaska Board of Fisheries presided over a public hearing held under AS 44.62.210 for the purpose of taking testimony in connection with the adoption of changes to 5 AAC dealing with finfish and shellfish fisheries in the state of Alaska.

DATE: June 7, 2018
Juneau, Alaska



Glenn Haight, Executive Director
Alaska Board of Fisheries

SUBSCRIBED AND SWORN TO before me this 7 day of June, 2018.



Notary Public in and for the
State of Alaska
My commission expires: w/office

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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

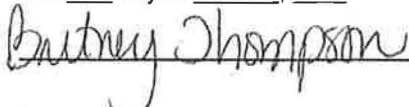
October 29, 2017

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



Subscribed and sworn to before me
this 31st day of October, 2017



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

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Statutory Authority: AS 16.05 - AS 16.20, AS 16.40

Statutes Being Implemented, Interpreted, or Made Specific: AS 16.05 - AS 16.20, AS 16.40

Fiscal Information: The proposed regulatory actions are not expected to require an increased appropriation.

Date 10/27/17

/s/
Glenn Haight, Executive Director
Alaska Board of Fisheries

Published: October 29, 2017