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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Glenn Haight, Commercial Fisheries Entry Commission Emergency Regulation

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: May 22, 2024

RE: Filed Emergency Regulations: Commercial Fisheries Entry Commission Emergency Regulation

Commercial Fisheries Entry Commission Emergency Regulations re: Cook Inlet Eastside Set Gillnet Fleet (20 AAC 05.220(a))

Attorney General File:	Emergency Regulations
Regulation Filed:	5/22/2024
Effective Date:	5/22/2024
Expiration Date:	September 18, 2024 unless made permanent by the adopting agency
Print:	250, July 2024

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

FINDING OF EMERGENCY

The Alaska Commercial Fisheries Entry Commission (CFEC) finds that an emergency exists and that the attached regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following.

In the Cook Inlet salmon set gillnet fishery (S04H), there is a subset of permit holders who traditionally fish in what is formally the Upper Subdistrict of the Central District, or informally known as the Eastside Set Gillnet fishery (ESSN).

The ESSN permit holders number in excess of 340 individuals who support crews of three to four people. The general area sits adjacent to the Kenai and Kasilof rivers, which is the epicenter of Alaska's most pronounced fish war for the last 30 years. Competition over fisheries resource allocation from sport and personal use fisheries has led to a significant decline in commercial fishing opportunities in recent years. Between 1990-1999 the total commercial harvest by the ESSN permit holders was 9.4 million pounds. That fell to 8.7 between 2000-2009, and to 5.7 between 2010-2019. The target species is Kenai and Kasilof river bound sockeye salmon which remains a healthy resource.

More recently business stability has grown worse. Returns of Kenai River king salmon are struggling, failing to meet escapement goals in the last four years. At the recent February/March Upper Cook Inlet Finfish Board of Fisheries meeting, the Kenai River Late-Run king salmon stock was designated a stock of concern. Prior to this year, going back to 2020, the ESSN faced severe restrictions to fishing times because the king salmon migrate along the same path at the same time as Kenai and Kasilof river bound sockeye salmon, the target species for the ESSN. The 2020-2022 seasons were closed well prior to the normal season closure dates. In 2023, the fishery was closed for the entire season.

In an attempt to provide even modest opportunity, the Board of Fisheries passed a regulation allowing S04H permit holders to use dipnets as allowable gear, starting June 20. Dipnet gear allows the harvester to return any harvested king salmon safely back into the water. Given CFEC has set gillnet gear as the only allowable gear for this permit category in this limited fishery, it requires a concurrent regulatory change.

CFEC recently issued proposed regulations adding dipnet gear to the S04H category. However, given the timing required for a proposed regulation, it would not be effective in time for the fishing season – actually it would miss almost the entire fishing season. CFEC received word from the Alaska Department of Fish & Game that it would not open the fishery to dipnets until the CFEC regulations were effective, but if not for that the department would use its discretionary powers and open the fishery to dipnet gear.

In the 1990's this group of permit holders averaged \$11 million a year. Between 2020-2021 this fell to \$1.7 million. In 2023 the ESSN was entirely shut down and earned nothing. The economic collapse of this once vibrant fishery is evident.

Finding of Emergency and Certification Order

It is the purpose of the Limited Entry Act to provide economic stability to commercial fisheries through controlling participation. If the dipnet gear allowance is not in place prior to the season, these long-time participants will for the second year in a row be completely shut out from fishing opportunity. It is with that the CFEC finds there is an emergency and issues supporting regulations.

In its review of gear regulations, CFEC noted a similar situation in the Yukon Lower River salmon gillnet fishery (S04Y). In 2013, the Alaska Board of Fisheries allowed the use of dipnets for the salmon fishery. Although the policy of ADF&G was then and continues until just this week to allow this without concurrent CFEC changes, it appears the department is changing its policy and may not allow a Yukon commercial salmon fishery if escapement allows it to occur. This is a fishery in equally dire straights and CFEC is fearful that by not adding dipnets as an allowable gear type to its gear code regulations this group of harvesters may feel the same impacts.

ORDER CERTIFYING ADOPTION

I certify that the Alaska Commercial Fisheries Entry Commission, under the authority of AS 16.43.030(c), AS 16.43.100(4), AS 16.43.120, and AS 16.43.950 adopted at its May 22, 2024 meeting the attached 2 pages of regulation changes as an emergency regulation to take effect immediately upon filing by the lieutenant governor, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

Date: May 22, 2024



Glenn Haight, Commissioner

FILING CERTIFICATION

April Simpson for

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

May 22, 2024, at 4:15 p.m., I filed the attached regulation according to the provisions of AS 44.62.



Lieutenant Governor *Nancy Dahlstrom*

Effective: May 22, 2024.

Register: 250, July 2024.

Expires September 18, 2024
unless made "permanent"
by the adopting agency

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**

EMERGENCY REGULATION

Register 250, July 2024 MISCELLANEOUS BOARDS

20 AAC 05.220(a) is amended to read:

20 AAC 05.220. Gear codes. (a) A number code from the following schedule **is** [WILL BE] used to indicate the specific type of gear for which an interim-use or entry permit is issued:

Code

...

04 set **gillnet*** [GILLNET]

...

21 **pound*****[POUND*]

...

***A set gillnet permit in the Cook Inlet Area allows the use of a dip net under 5 AAC 21.382.**

A set gillnet permit in the Yukon Area allows the use of a dip net under 5 AAC 05.362 [*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 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.**

...

(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

EMERGENCY REGULATION

Register 250, July 2024 MISCELLANEOUS BOARDS
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; am 6/25/2020, Register 234; am 9/18/2022, Register 243, am 5/22/2024,
Register 250)

Authority: AS 16.43.100 AS 16.43.140 AS 16.43.990
AS 16.43.110