

Alaska Board of Fisheries
 Work Session
 October 20-21, 2021 | Anchorage, AK

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Statewide (2)

ACR 1

Include pots as lawful gear for commercial halibut fishing (5 AAC 28.051, 5 AAC 39.145).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 28.051. Gear for halibut, and 5 AAC 39.145. Escape mechanisms for shellfish and groundfish pots.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

The International Pacific Halibut Commission (IPHC) and National Marine Fisheries Service (NMFS) manage fishing for Pacific halibut through regulations established under the authority of the Halibut Act. In 2018, the IPHC recommended, and the U.S. approved, [regulations](#) to authorize the retention of halibut by vessels using pot gear throughout Alaska. In 2020, the Secretary of Commerce approved a [final rule](#) to amend federal regulations to require vessel operators using pot gear and holding sufficient halibut individual fishing quota (IFQ) or community development quota (CDQ) to retain legal-sized halibut in the Bering Sea/Aleutian Islands IFQ or CDQ halibut or sablefish fisheries, as recommended by the North Pacific Fishery Management Council and the IPHC. Allowing the use of pot gear helps to address whale depredation on discarded halibut and allows for more efficient harvest of halibut in areas with whale depredation. State regulations at 5 AAC 28.051 do not authorize pots as a legal gear type and are therefore inconsistent with current federal and IPHC regulations.

WHAT SOLUTION DO YOU PREFER?

Amend 5 AAC 28.051 to read:

(a) Unless otherwise specified in this chapter, halibut may be taken only by hand troll gear, mechanical jigging machines, dinglebar troll gear, **pots**, and longlines.

(b) All commercial [LONGLINE OR SKATE GEAR] buoys or kegs must be marked with the permanent vessel license plate number of the vessel operating the gear.

Amend 5 AAC 39.145(1) to read:

(1) a sidewall, which may include the tunnel, of all shellfish, **halibut**, and groundfish pots must contain an opening equal to or exceeding 18 inches in length, except that in shrimp pots the opening must be a minimum of six inches in length; the opening must be laced, sewn, or secured together by a single length of untreated, 100 percent cotton twine, no larger than 30 thread; the cotton twine may be knotted at each end only; the opening must be within six inches of the bottom of the pot and must be parallel with it; the cotton twine may not be tied or looped around the web bars;

...

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

a) **for a fishery conservation purpose or reason:** Not applicable.

b) **to correct an error in regulation:** Not applicable.

- c) **to correct an effect on a fishery that was unforeseen when a regulation was adopted:**
State regulations are currently inconsistent with new federal and IPHC regulations for allowable gear types.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

State regulations will continue to be inconsistent with federal and IPHC regulations that allow retention of halibut with pot gear.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

This change in regulation provides consistency across state, federal, and IPHC regulations.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

Not applicable.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

The Alaska Department of Fish and Game manages Alaska's fisheries, subject to the regulations established by the board.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

Not applicable.

SUBMITTED BY: Alaska Department of Fish and Game.

ACR 2

Allow importation of live oysters from the Pacific Coast of North America for research purposes. (5 AAC 41.070)

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 41.070. Prohibitions on importation and release of live fish.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

Oysters are not native to the State of Alaska. While Alaskan waters are ideal for growing oysters, the waters are too cold for them to reproduce. Artificially spawning oysters in a hatchery setting is possible but not a cost-effective solution for supplying oyster spat to the aquatic farm industry. Oysters originating from the Pacific Coast of North America may be imported into Alaska for aquaculture purposes under terms of a stock acquisition permit, but they may not be imported, transported, or possessed for research purposes. This was likely an oversight when regulations related to aquatic farms were originally adopted because focus was on growing the aquaculture industry, not research. The governor’s Mariculture Task Force has set a goal to grow a \$100 million mariculture industry in 20 years. That growth will require research on aquatic farm species in Alaska. Research facilities have available funding and are ready to begin work immediately but are currently unable to legally obtain or possess Pacific oysters. Importation or possession of oysters in waters of Alaska or in laboratories for research purposes will not compete with the aquatic farm industry because oyster spat is readily available from commercial hatcheries outside the state and research facilities would be prohibited from selling oysters (AS 16.40.100. Aquatic Farm and Hatchery Permits).

This issue was raised as a concern to the Alaska Department of Fish and Game after proposal deadline for the 2022 Statewide Miscellaneous Shellfish meeting of the Alaska Board of Fisheries had passed.

WHAT SOLUTION DO YOU PREFER?

Amend 5 AAC 41.070 as follows:

...

(b) Live oysters [NATIVE TO AND ORIGINATING] from the Pacific Coast of North America may be imported, **transported, or possessed** for aquaculture purposes, **including research**, under a [STOCK] transport permit required by this chapter, and may be released into the waters of the state only if the

(1) broodstock is derived from oysters commercially cultured on the Pacific Coast of North America through three or more generations; and

(2) disease history or an inspection indicates no incidence of disease that is not indigenous to the state or is not considered to be a risk to indigenous stocks, and oyster health or marketability.

...

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

a) **for a fishery conservation purpose or reason:** Not applicable.

b) **to correct an error in regulation:** Not applicable.

- c) **to correct an effect on a fishery that was unforeseen when a regulation was adopted:** Prohibition on importation of live oysters for research purposes was likely an oversight when regulations related to aquatic farms were originally adopted because focus was on growing the aquaculture industry, not research.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

Research activities on oysters in Alaska will continue to be limited by availability of oyster spat from in-state sources. This will hamper growth of the aquaculture industry in Alaska.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

Not applicable.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

Not applicable.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

The Alaska Department of Fish and Game manages Alaska's fisheries, subject to the regulations established by the board.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

Not applicable.

SUBMITTED BY: Alaska Department of Fish and Game.

Kuskokwim (1)

ACR 3

Extend Kuskokwim River subsistence salmon fishing permit sunset date one year.

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 01.280. Subsistence fishing permits.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

Since 2010, king salmon returns to the Kuskokwim River have been below historical averages and some of the lowest on record. These low returns have prompted restrictions to the Kuskokwim River subsistence salmon fishery. At the August 2015 Kuskokwim Subsistence Salmon Panel meeting (panel) in Bethel, the panel heard testimony from panel members in support of a limited permit system that would allow for the harvest of king salmon during times of conservation.

The Alaska Board of Fisheries (board) met in Anchorage from March 20–24, 2017 to discuss proposals relating to subsistence fishing permits within the Kuskokwim River. The board adopted Proposal 276, establishing a limited permit system in Kuskokwim River waters from the Yukon Delta National Wildlife Refuge boundary at Aniak upstream to the headwaters of the Kuskokwim River. The proposal included a sunset date of December 31, 2021.

The COVID-19 global pandemic shifted the normal Arctic, Yukon, Kuskokwim Alaska Board of Fisheries finfish meeting schedule to 2023. Therefore, this permit system will expire prior to the regular board meeting, eliminating permits as a management option during years of low king salmon abundance.

WHAT SOLUTION DO YOU PREFER?

Amend 5 AAC 01.280 to read:

...

(2) the provisions of (1) of this section do not apply after December 31, **2022** [2021].

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

- a) **for a fishery conservation purpose or reason:** In years of low king salmon abundance the subsistence permit and harvest report provide timely harvest data needed to ensure subsistence harvest is sustainable. The permit provides a means to limit and track harvest when harvestable surplus of king salmon does not warrant unrestricted fishing. When the department issues an emergency order implementing the permit, subsistence fishing is open continuously until the household limit of 10 king salmon is reached and permit holders may retain all other salmon captured which helps toward meeting subsistence needs.
- b) **to correct an error in regulation:** Not applicable.
- c) **to correct an effect on a fishery that was unforeseen when a regulation was adopted:** The COVID-19 global pandemic shifted the normal Arctic, Yukon, Kuskokwim Alaska

Board of Fisheries finfish meeting schedule to 2023. Therefore, this permit system will expire prior to the regular board meeting, eliminating permits as a management option during years of low king salmon abundance.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

Subsistence permits and harvest reporting will not be available as a management tool and management actions to conserve king salmon may need to be more conservative.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

In 2017 the Alaska Board of Fisheries adopted Proposal 276 establishing a subsistence permit and harvest report in Kuskokwim River waters from the Yukon Delta National Wildlife Refuge boundary at Aniak upstream to the headwaters of the Kuskokwim River. The permit and harvest report do not allocate harvest opportunity between user groups, rather they provide accurate and timely salmon harvest data and limit harvest to a sustainable level.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

Not applicable.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

The Alaska Department of Fish and Game manages Kuskokwim River salmon fisheries, subject to the regulations established by the board.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

This regulation was adopted in 2017 based on Proposal 276.

SUBMITTED BY: Alaska Department of Fish and Game.

Bristol Bay (2)

ACR 4

Extend Bristol Bay Herring Management Plan sunset dates one year.

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 27.865. *Bristol Bay Herring Management Plan.*

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

In 2018 The Alaska Board of Fisheries (board) adopted Proposal 46 increasing the allocation of harvestable surplus Togiak sac roe herring to the purse seine fleet (80 percent of harvestable surplus) and reducing the gillnet fleet allocation (20 percent of harvestable surplus). In addition, the proposal allowed up to 50 percent of the unharvested gillnet fishery allocation to be reallocated to the purse seine fleet. This was done to provide more opportunity to utilize the annual herring guideline harvest level. Proposal 46 included a sunset date of December 31, 2021.

WHAT SOLUTION DO YOU PREFER?

The department does not have a specific recommendation on whether the board should allow the allocations adopted in Proposal 46 to sunset, extend them with a new sunset date, or make them permanent. If the board chooses to take up this ACR, the following is the sunset provision.

5 AAC 27.865(b)

....

(5) after the herring spawn-on-kelp harvest and the Dutch Harbor food and bait fishery have been subtracted, the remaining harvestable surplus is allocated to the Togiak District herring fishery; the department shall manage for a removal of 30 percent of that surplus by the gillnet fleet and 70 percent by the purse seine fleet, except that the allocations in this subsection shall be 20 percent by the gillnet fleet and 80 percent by purse seine fleet through December 31, 2022[2021];

....

(8) through December 31, 2022[2021], if the department's inseason projection of the Togiak District gillnet harvest is less than the guideline harvest level, the commissioner may reallocate 50 percent of the remaining gillnet guideline harvest level to the Togiak District purse seine fleet.

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

- a) **for a fishery conservation purpose or reason:** Not applicable.
- b) **to correct an error in regulation:** Not applicable.
- c) **to correct an effect on a fishery that was unforeseen when a regulation was adopted:**
The COVID-19 global pandemic shifted the normal Bristol Bay finfish board meeting schedule to 2022. Therefore, these provisions will expire prior to the regular board meeting. In adopting the sunset provisions, the board intended to revisit them during the regularly scheduled meeting. This ACR is submitted to provide the board an opportunity to evaluate these sunset provisions at the next in cycle Bristol Bay Finfish meeting, as originally intended.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

Allocation of Togiak sac roe herring harvest opportunity will revert to 70 percent of harvestable surplus to the purse seine fleet and 30 percent of harvestable surplus to the gillnet fleet and unharvested gillnet fishery allocation will not be reallocated to the purse seine fleet.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

These sunset provisions are allocative.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

The COVID-19 global pandemic shifted the normal Bristol Bay finfish board meeting schedule to 2022. Therefore, these provisions will expire prior to the regular board meeting. In adopting the sunset provisions, the board intended to revisit them during the regularly scheduled meeting. This ACR is submitted to provide the board an opportunity to evaluate these sunset provisions at the next in cycle Bristol Bay Fin Fish meeting, as originally intended.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

The Alaska Department of Fish and Game manages the Togiak herring fisheries, subject to the regulations established by the board.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

This regulation was adopted in 2018 based on Proposal 46.

SUBMITTED BY: Alaska Department of Fish and Game.

ACR 5

Remove the allocations between the drift and set gillnet gear in the Naknek-Kvichak District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan (5 AAC 06.364).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 06.364 Naknek-Kvichak District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

The problem that has occurred concerning the allocation plan for the Kvichak Section of the Naknek/Kvichak District is that when the current management of the N/K District replaced the previous management, it is not following the allocation plan as the BOF had set up.

When allocation was implemented the previous managed. When asked by the BOF if they could manage to the allocation percentages, the previous N/K district management said they could do that.

The allocation percentages between the setnet and drift is 84% drift and 16% setnet. The setnet percentage is 8% Naknek set and 8% Kvichak set.

The summer 2021 season, the allocation percentage was at 53% drift and 47% set. When I asked the Naknek/Kvichak District management why this happened, the response was this is not the previous management and it is not going to do the allocation.

The problem is the management is allowing the Kvichak setnet to fish whenever the setnet and drift fishermen are fishing in the Naknek section of the N/K District. Thus the allocation percentage for the Kvichak setnet is, and has, been above the 8% that the allocation was requiring. In the summer of 2021 the set net allocation percentage reached 47% when it was supposed to be 16%.

By allowing the setnet fleet to fish like this, most of the 47% was Kvichak set. It takes longer for the Kvichak to achieve the escapement to allow both gear groups to fish the Kvichak District.

WHAT SOLUTION DO YOU PREFER?

Eliminate the allocation for the Kvichak Section of the N/K District, and manage the Kvichak section as it was before allocation came to effect.

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

The present management is of the Naknek/Kvichak District is not following the management plan.

for a fishery conservation purpose or reason:

to correct an error in regulation:

to correct an effect on a fishery that was unforeseen when a regulation was adopted:

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

The allocation percentages will continue to defy the management plan set into effect by the BOF.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

It's trying to set the plan into the way it was implemented.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

I am a commercial fisherman.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

We haven't brought up the problem of the management not following the plan.

SUBMITTED BY: Randolph Alvarez

Alaska Peninsula (2)

ACR 6

Modify the South Unimak and Shumagin Islands June Salmon Management Plan, and the Post-June Management Plan for the South Alaska Peninsula (5 AAC 09.365, 5 AAC 09.366).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 09.365 *South Unimak and Shumagin Islands June Salmon Management Plan*, and 5 AAC 09.366. *Post-June Management Plan for the South Alaska Peninsula*.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

Chignik Management Area Salmon Fisheries are in crisis. Immediate Action is needed by the Alaska Board of Fisheries to address unforeseen fishery and escapement failures for sockeye salmon in the Chignik Drainage.

1. The Alaska Board of Fisheries has, over the past 30 years, adopted a suite of management plans for the commercial salmon fisheries of the Alaska Peninsula Area, including 5 AAC 09.365 *South Unimak and Shumagin Islands June Salmon Management Plan*, and 5 AAC 09.366. *Post-June Management Plan for the South Alaska Peninsula* that, when implemented by the Alaska Department of Fish and Game during the 2018, 2019, 2020 and 2021 seasons, no longer consistently provide for realization of established escapement goals for early and late run sockeye salmon bound for the Chignik Watershed nor provide for an appropriate sharing of the burden of conservation thereby jeopardizing the sustained yield of the important and historic system.
2. Commercial salmon fishermen in the Chignik Management Area have been denied opportunity to harvest early-run sockeye salmon bound for the Chignik Watershed during the 2018, 2019, 2020, and 2021 seasons, and have been denied or severely limited in opportunity on late-run sockeye salmon during the same time, in part due to commercial salmon fisheries in the Alaska Peninsula Area harvesting Chignik bound fish.
3. Alaska's salmon processors have largely abandoned the Chignik Management Area due to repeated low runs of sockeye salmon returning to the Chignik Watershed. This loss of economic activity is leaving residents of the Chignik Management Area in grave economic jeopardy.

WHAT SOLUTION DO YOU PREFER?

In the case of this immediate conservation emergency, the first step is one that only the Alaska Board of Fisheries can take and that is to further restrict all harvesters of Chignik bound sockeye. Long-term solutions to most salmon management challenges may ultimately require multiple elements including management changes, assessment improvements and possibly habitat modifications.

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

for a fishery conservation purpose or reason: The total run of both Early and Late Run Sockeye Salmon to the Chignik Drainage during the 2018, 2019, 2020, and 2021 seasons were each a fraction of the historical averages resulting in extensive fishery closures and failures to meet escapement objectives. The purpose of this ACR is to ask the Board to undertake a review of existing fishing regulations governing the harvest of Chignik Sockeye Salmon and make

regulatory adjustments as appropriate to assure that the appropriate sharing of the burden of conservation is established.

to correct an error in regulation: This ACR does not address an error in regulation.

to correct an effect on a fishery that was unforeseen when a regulation was adopted: Run strength of Chignik Drainage Sockeye Salmon has been extremely consistent over time leading up to the 2018 season. As a result, the Alaska Board of Fisheries has, over the past 30 years, adopted a suite of management plans for the commercial salmon fisheries of the Alaska Peninsula Area, including 5 AAC 09.365 *South Unimak and Shumagin Islands June Salmon Management Plan*, and 5 AAC 09.366. *Post-June Management Plan for the South Alaska Peninsula* that, when implemented by the Alaska Department of Fish and Game during the 2018, 2019, 2020 and 2021 seasons, no longer consistently provide for realization of established escapement goals or an appropriate sharing of the burden of conservation for early and late run sockeye salmon bound for the Chignik watershed thereby jeopardizing the sustained yield of this historic system.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

Two things are likely to occur prior to the next regularly scheduled meeting of the Alaska Board of Fisheries should the Board choose to deny this Agenda Change Request.

First, failure to accept this ACR will leave the responsibility of assigning the burden of conservation between South Peninsula salmon fisheries and the salmon fisheries of the Chignik Management Area to the management biologist of the Alaska Department of Fish and Game. The Department is apparently concerned about allocative implications of determining the appropriate sharing of the burden of conservation and so they fail to establish an appropriate sharing of the burden of conservation between Chignik and Area M fisheries. This is a problem that only the Board of Fisheries can solve.

Secondly, successfully achieving the escapement goals for both early and late run Sockeye Salmon in the Chignik drainage is clearly in jeopardy and as a result so is the sustainability of this valuable resource. A thorough review and discussion of management strategy for diminished run sizes can likely result in plans that increase the likelihood of achieving those important goals.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

Achieving the escapement goals and establishing an appropriate sharing of the burden of conservation for both early and late run Sockeye salmon in the Chignik Drainage is clearly the objective of the ACR. Any adjustment to fishing opportunity should be made with that in mind and be proportional to the degree possible.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

Not applicable

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

Commercial Fishermen and Subsistence Fishermen.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

No, although there is a long history of regulatory development surrounding the harvest of sockeye salmon bound for the Chignik Drainage each previous consideration was based on the premise that escapement goals for both early and late run sockeye salmon bound for the Chignik Drainage would be assured and that significant harvestable surpluses of fish would exist. That is no longer the case.

SUBMITTED BY: Chignik Intertribal Coalition

ACR 7

Modify commercial salmon fisheries opening dates and times in the South Unimak and Shumagin Islands June Salmon Management Plan, and the Post-June Salmon Management Plan for the South Alaska Peninsula (5 AAC 09.365, 5 AAC 09.366).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 09.365. *South Unimak and Shumagin Islands June Salmon Management Plan*, and 5 AAC 09.366. *Post-June Salmon Management Plan for the South Alaska Peninsula*.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

In each of the last four years (2018-21) the Chignik sockeye salmon run has failed to meet minimum escapement (Table 1), and based on the paucity of 2-ocean age early-run sockeye in the 2021 escapement a poor return can be expected next year (2021) along with another escapement shortfall.

Based on WASSIP data, the Shumagins Islands Section and Dolgoi Islands Area (identified in 5 AAC 09.365(f) intercept Chignik-bound sockeye salmon from mid-June through late July. Relief from this interception is desperately needed when the Chignik early sockeye run has an escapement deficiency.

Under current regulations neither the Shumagin Islands Section nor the Dolgoi Islands Area share any measure of stock conservation on Chignik-bound sockeye salmon or any other stock.

Experienced in the last four years is an unforeseen situation with a complete failure of the Chignik early run to not reach meet minimum escapement. And this is with the entire Chignik Management Area closed through the early-run migration period extending through July 31. Since 2018 the early-run escapement has averaged 28% below the minimum requirement and 37% less than the mid-point goal which is the targeted escapement by the Department for a Chignik early-run sockeye fishery.

Conservative action is urgently needed in the Shumagin Islands and Dolgoi Islands fisheries to prevent Chignik’s early sockeye salmon run from further faltering from an escapement shortage and future stock- of-concern management.

Table 1. Chignik sockeye salmon early-run escapement and goals, 2018-21.

YEAR	ESCAPEMENT	GOAL (BEG)	TARGETED GOAL /1
2018	263,979	350,000 – 450,000	400,000
2019	345,918	350,000 – 450,000	400,000
2020	137,213	350,000 – 450,000	400,000
2021	264,615	350,000 – 450,000	400,000

/1

WHAT SOLUTION DO YOU PREFER?

1) June Shumagin Islands Section & South Unimak S.P. Salmon Fisheries

Notwithstanding (1)(A) and (2)(A), beginning June 15 durations of commercial fishing periods authorized under 5 AAC 09.365(d), in the Shumagin Islands Section and the Dolgoi Islands Area (defined in (f) of 5 AAC 09.365) will be as follows until the Department expects the mid-point of the Chignik early-run escapement to be met or Chignik has its first salmon opening:

All Gear Types:

June 15, 6:00AM until June 16, 10:00PM	Duration: 40 hours
June 20, 6:00AM until June 21, 10:00PM	Duration: 40 hours
June 25, 6:00AM until June 26, 10:00PM	Duration: 40 hours

2) POST JUNE Shumagin Islands Section and South Unimak

Notwithstanding 5 AAC 09.366(d), July 6 through July 31 commercial fishing periods in the Shumagin Islands Section and the Dolgoi Islands Area (defined in (j) of 5 AAC 09.366) will be as follows until the Department expects the mid-point of the Chignik early-run escapement to be met or Chignik has its first salmon opening:

All Gear Types:

July 6, 6:00 AM until midnight (2400 hrs)	Duration: 18 hours
July 10, 6:00 AM until midnight (2400 hrs)	Duration: 18 hours
July 14, 6:00 AM until midnight (2400 hrs)	Duration: 18 hours
July 18, 6:00 AM until midnight (2400 hrs)	Duration: 18 hours
July 22, 6:00 AM until midnight (2400 hrs)	Duration: 18 hours
July 26, 6:00 AM until midnight (2400 hrs)	Duration: 18 hours
July 30, 6:00 AM until midnight (2400 hrs)	Duration: 18 hours.

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

for a fishery conservation purpose or reason: Reduces the interception of Chignik early-run sockeye salmon in the Shumagin Islands Section and the Dolgoi Islands Area when there is escapement deficiency and therein provide for proper escapement and a sharing in the burden of conservation.

to correct an error in regulation: N/A.

to correct an effect on a fishery that was unforeseen when a regulation was adopted: Yes, it was unforeseen that the Chignik early sockeye run would be in peril to where repeatedly an escapement shortfall would occur four years in succession and for the run to approach a stock of concern classification with one more year of failed minimum escapement..

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

With already four years of less than minimum escapement and the high prospect for another poor early run (2022), the sustainability of the Chignik early run will be endangered to where stock recovery efforts may well require draconian regulation changes in multiple salmon management areas to restore the Chignik early sockeye salmon run.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

The issue is solely stock conservation and resource sustainability. Achieving the Chignik early-run escapement goal is the sole purpose.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

N/A.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

Representing Chignik stakeholder as a resident commercial, sport, and subsistence fishery participant.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

The proposed regulation changes have not been previously submitted, either as an ACR or BOF proposal. There have been repeated calls for the sharing of the conservation requirement/burden for Chignik's early and late sockeye runs escapements coupled with allocation issues in BOF proposals going back several cycles, but none speaking solely to stock conservation or prevention of a stock-of-concern classification or disaster.

SUBMITTED BY: Don Bumpus

Upper Cook Inlet (6)

ACR 8

Modify commercial salmon set gillnet gear in the Upper Cook Inlet fishery (5 AAC 21.359 and 5 AAC 39.105).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 21.359. *Kenai River Late-Run King Salmon Management Plan*; and 5 AAC 39.105(X).
Types of Legal Gear.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

When all user groups are closed to harvesting kings, the Central District Eastside set netters are the only user group that is completely closed to the harvest of sockeye. This is a disaster for the Cook Inlet commercial fishing industry.

WHAT SOLUTION DO YOU PREFER?

5 AAC 21.359(d)

(3) close the commercial set gillnet fishery in the Upper Subdistrict of the Central District **except that open periods may be allowed with set gillnets up to 45 meshes deep that are flagged, with buoys that are a minimum of 600 feet apart.**

5 AAC 39.105.....

(X) A flagged set gillnet is a gillnet that has only been intentionally set, staked, anchored, or otherwise fixed at one end and will flow freely with the current.

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

for a fishery conservation purpose or reason: Flagged nets do not catch kings. The flow with the current and kings do not get trapped in a bagged net. Flagged nets target only sockeye, coho, pink, and chum due to the mesh size.

to correct an error in regulation: Flagged nets may be used as a tool to enable a traditional fishery to harvest sockeye without harvesting kings during a closure. Flagged nets catch fewer sockeye but catching fewer is better than catching one.

to correct an effect on a fishery that was unforeseen when a regulation was adopted: All user groups are allowed to fish sockeye when king harvests are closed except Eastside set netters. This tool allows Eastside set netters to harvest sockeye during king closures.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

There may be continued closures of the Eastside setnet fishing seasons resulting in economic distress to fishermen, the community, and over escapement of the Kenai and Kasilof Rivers.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

This ACR corrects a regulation that has become allocative by denying a traditional user group access to harvesting ANY salmon when king harvesting has been closed. The ACR allows all user groups to fish sockeye during closures.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

I am an Eastside setnet fisherman of over 20 years that has been economically affected by the early closures of our sockeye seasons.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

This has never been considered.

SUBMITTED BY: Russell Clark

ACR 9

Modify commercial salmon set gillnet fishery in the *Kenai River Late-Run King Salmon Management Plan* (5 AAC 21.359).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 21.359. *Kenai River Late-Run King Salmon Management Plan*.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

The board amended 5 AAC 21.359 Kenai River Late-Run King Salmon Management Plan at the 2020 UCI meeting to require a mandatory closure of the Upper Subdistrict set gillnet (ESSN) fishery if the Kenai River king salmon OEG of 15,000 was not projected to be achieved and the Kenai River king salmon sport fishery was closed. This occurred in both 2020 and 2021. During these two years, significant over-escapement of sockeye salmon occurred in both the Kasilof and Kenai Rivers while the ESSN fishery remained closed. The board provided no options in the amended management plan for dealing with large sockeye salmon escapement and the department has not used its emergency order authority to provide any fishing time in the ESSN fishery to harvest the very large surpluses of sockeye salmon. In essence, hundreds of thousands of sockeye salmon went unharvested.

WHAT SOLUTION DO YOU PREFER?

Amend 5 AAC 21.359(d)(3) to read:

(d) If the projected late-run king salmon escapement is less than [15,000]13,500 king salmon 75 cm mid eye to tail fork and longer, the department shall

(1) close the sport fisheries in the Kenai River and in the salt waters of Cook Inlet north of the latitude of Bluff Point to the taking of king salmon;

(2) close the commercial drift gillnet fishery in the Central District within one mile of the Kenai Peninsula shoreline north of the Kenai River and within one and one-half miles of the Kenai Peninsula shoreline south of the Kenai River; and

(3) **Restrict commercial fishing with set gillnets in the Upper Subdistrict as follows;**
[CLOSE THE COMMERCIAL SET GILLNET FISHERY IN THE UPPER SUBDISTRICT OF THE CENTRAL DISTRICT.]

(A) If the Kasilof River sockeye salmon BEG is projected to be exceeded, limit commercial fishing periods with set gillnets in the Kasilof Section of the Upper Subdistrict to within ½ mile of mean high tide mark and will be exempt from hour restrictions described in 5 AAC 21.359; legal gear during these fishing periods will be limited up to two set gillnets that are each not more than 35 fathoms in length and 29 meshes in depth or one set gillnet that is not more than 35 fathoms in length and 45 meshes in depth.

(B) If the Kenai River sockeye salmon SEG is projected to be exceeded, limit commercial fishing periods with set gillnets in the Kenai Section to within 600ft of mean high tide mark and will be exempt from hour restrictions described in 5 AAC 21.359; legal gear during these fishing periods will be limited up to two set gillnets that are each not more than 35 fathoms in length and 29 meshes in depth or one set gillnet that is not more than 35 fathoms in length and 45 meshes in depth.

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

for a fishery conservation purpose or reason:

to correct an error in regulation:

to correct an effect on a fishery that was unforeseen when a regulation was adopted: When the board modified the Kenai River Late-Run King Salmon Management Plan to require a mandatory closure of the ESSN fishery when the king salmon OEG was not projected to be achieved, they were not fully aware of two important details that would occur after the plan was amended.

First, the board did not know during the 2020 UCI meeting that the North Pacific Fishery Management Council would vote to recommend Amendment 14 to the Salmon FMP including a closure of the Cook Inlet EEZ to commercial salmon fishing. Closure of the EEZ will result in additional sockeye salmon entering both the Kenai and Kasilof rivers, exacerbating the over-escapement issues observed in 2020 and 2021 if Kenai River large king salmon runs remain stagnant and the ESSN fishery is mandatorily closed. This is new information the board could not have foreseen at the 2020 UCI meeting.

Second, the East Side Setnet Fishery is divided into two sections, Kasilof Section which is predominantly an offshore fishery, and the Kenai Section which is predominantly a near-shore fishery due to strong tidal currents in the Kenai Section that are not a factor in the Kasilof Section. The department has used the ½ mile fishery in the Kasilof Section to conserve King Salmon bound for the Kenai River for several years. Department data shows that the Kasilof section can efficiently harvest Kasilof-bound sockeye with minimal impact on late run Kenai kings while fishing within ½ mile of mean high tide. Allowing a ½ mile fishery will enable sockeye harvest among set netters in the Kasilof section, most of whom do not have nets in the 600-foot zone while minimizing Kenai king harvest. A 600-foot fishery in the Kenai section will include the majority of set netters operating there because most have productive nets within 600 feet. While the department has used the 600-foot fishery prior to the 2020 board meeting, it is still a relatively new tool. Though used in 2020 and 2021 for just a few days, the harvest data indicates that fishing within 600 feet of shore is very effective at significantly reducing king salmon harvest in the Kenai Section while harvesting significant numbers of sockeye. Fishing within ½ mile in the Kasilof section and within 600 feet of shore in the Kenai Section will greatly reduce king salmon harvest and can be a surgical tool used by the department to harvest large surpluses of sockeye salmon.

Thirdly, the department has increasingly used what is referred to as the 600-foot fishery as a tool to limit harvest of king salmon while providing opportunity to harvest surplus sockeye salmon. The 600-foot fishery limits set gillnets to within 600 feet of the mean high tide mark. In 2021, for the first time ever, set gillnetting in both the Salamatof and East Foreland sections were included in the restricted 600-foot fishery for one of their five fishing periods. So, while the department had used the 600-foot fishery prior to the 2020 board meeting, it was still a relatively new tool. Now, the board can examine two additional years (2020 and 2021) of harvest data that further demonstrates that fishing within 600 feet of shore is very effective at significantly reducing king salmon harvest while harvesting significant numbers of sockeye.

These two sections already are managed separately with the Kasilof section starting as early as June 20, and the Kenai section starting after July 8. Allowing the two sections to fish within the area restrictions as described above will allow set netters to remain economically viable by harvesting significant numbers sockeye with minimal impact to the large late run Kenai kings

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

Waiting until the 2024 UCI board meeting to modify the mandatory closure of the ESSN fishery could result in two more years of significant over-escapement of sockeye salmon in both the Kenai and Kasilof rivers. A serious and sincere conversation is requested of the board to acknowledge there can be a small amount of king salmon harvested in the ESSN fishery in order to provide some opportunity to harvest surplus sockeye salmon. Restricted fishing within 600'/half-mile of shore will greatly reduce king salmon harvest (please examine the data) and can be a surgical tool used by the department to harvest large surpluses of sockeye salmon.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

Providing the department with a tool to reduce large sockeye salmon escapement levels during low Kenai River king salmon abundance years is not an allocative issue.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

N/A.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

Commercial Fisherman Set netter.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

An emergency petition was filed on July 23, 2021 and was heard by the Board of Fish on August 2, 2021. At this meeting several board members stated that the emergency petition platform was not the correct venue to solve this matter. They encouraged set netters to present our limited fishery through the ACR process.

SUBMITTED BY: Joel Doner

ACR 10

Modify commercial salmon set gillnet fishery in the *Kenai River Late-Run King Salmon Management Plan* (5 AAC 21.359).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 21.359(d)(3). *Kenai River Late-Run King Salmon Management Plan*.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

The board amended 5 AAC 21.359 *Kenai River Late-Run King Salmon Management Plan* at the 2020 UCI meeting to require a mandatory closure of the Upper Subdistrict set gill net (ESSN) fishery if the Kenai River king salmon OEG of 15,000 was not projected to be achieved and the Kenai River king salmon sport fishery was closed. This occurred in both 2020 and 2021. During these two years, significant over-escapement of sockeye salmon occurred in both the Kasilof and Kenai Rivers while the ESSN fishery remained closed. The board provided no options in the amended management plan for dealing with large sockeye salmon escapement and the department has not used its emergency order authority to provide any fishing time in the ESSN fishery to harvest the very large surpluses of sockeye salmon. In essence, hundreds of thousands of sockeye salmon went unharvested.

WHAT SOLUTION DO YOU PREFER?

Amend 5 AAC 21.359(d)(3) to read:

(d) If the projected late-run king salmon escapement is less than 15,000 king salmon 75 cm mid eye to tail fork and longer, the department shall

(1) close the sport fisheries in the Kenai River and in the salt waters of Cook Inlet north of the latitude of Bluff Point to the taking of king salmon;

(2) close the commercial drift gillnet fishery in the Central District within one mile of the Kenai Peninsula shoreline north of the Kenai River and within one and one-half miles of the Kenai Peninsula shoreline south of the Kenai River; and

(3) **Restrict commercial fishing with set gillnets in the Upper Subdistrict as follows:**
[CLOSE THE COMMERCIAL SET GILLNET FISHERY IN THE UPPER SUBDISTRICT OF THE CENTRAL DISTRICT].

(A) If the Kasilof River sockeye salmon BEG is projected to be met or exceeded, limit commercial fishing periods with set gillnets in the Upper Subdistrict south of the Kenai River to within 600ft of mean high tide mark and will be exempt from hour restrictions described in 5 AAC 21.359; legal gear during these fishing periods will be limited up to two set gillnets that are each not more than 35 fathoms in length and 29 meshes in depth or one set gillnet that is not more than 35 fathoms in length and 45 meshes in depth

(B) If the Kenai River sockeye salmon inriver goal for the appropriate run size tier as described in 5 AAC 21.360(c)(1), (c)(2), or (c)(3) is projected to be met or exceeded, limit commercial fishing periods with set gillnets in the Upper Subdistrict to within 600ft of mean high tide mark and will be exempt from hour restrictions described in 5 AAC 21.359; legal gear during these fishing periods will be limited up to two set gillnets that are each not more than 35 fathoms in length and 29 meshes in depth or one set gillnet that is not more than 35 fathoms in length and 45 meshes in depth

**STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.
for a fishery conservation purpose or reason:**

to correct an error in regulation:

to correct an effect on a fishery that was unforeseen when a regulation was adopted: When the board modified the *Kenai River Late-Run King Salmon Management Plan* to require a mandatory closure of the ESSN fishery when the king salmon OEG was not projected to be achieved, they were not fully aware of two important details that would occur after the plan was amended.

First, the board did not know during the 2020 UCI meeting that the North Pacific Fishery Management Council would vote to recommend Amendment 14 to the Salmon FMP including a closure of the Cook Inlet EEZ to commercial salmon fishing. Closure of the EEZ will result in additional sockeye salmon entering both the Kenai and Kasilof rivers, exacerbating the over-escapement issues observed in 2020 and 2021 if Kenai River large king salmon runs remain stagnant and the ESSN fishery is mandatorily closed. This is new information the board could not have foreseen at the 2020 UCI meeting.

Second, the department has increasingly used what is referred to as the 600-foot fishery as a tool to limit harvest of king salmon while providing opportunity to harvest surplus sockeye salmon. The 600-foot fishery limits set gillnets to within 600 feet of the mean high tide mark. In 2021, for the first time ever, set gillnetting in both the Salamatof and East Foreland sections were included in the restricted 600 foot fishery for one of their five fishing periods. So, while the department had used the 600-foot fishery prior to the 2020 board meeting, it was still a relatively new tool. Now, the board can examine two additional years (2020 and 2021) of harvest data that further demonstrates that fishing within 600 feet of shore is very effective at significantly reducing king salmon harvest while harvesting significant numbers of sockeye.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

Waiting until the 2024 UCI board meeting to modify the mandatory closure of the ESSN fishery could result in two more years of significant over-escapement of sockeye salmon in both the Kenai and Kasilof rivers. A serious and sincere conversation is requested of the board to acknowledge there can be a small amount of king salmon harvested in the ESSN fishery in order to provide some opportunity to harvest surplus sockeye salmon. Fishing within 600 feet of shore will greatly reduce king salmon harvest (please examine the data) and can be a surgical tool used by the department to harvest large surpluses of sockeye salmon.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

Providing the department with a tool to reduce large sockeye salmon escapement levels during low Kenai River king salmon abundance years is not an allocative issue.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

N/A.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

Commercial Fisherman Setnetter on North K-Beach stat area 244-32.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

An emergency petition was filed on July 23, 2021 and was heard by the Board of Fish on August 2, 2021. At this meeting several board members stated that the emergency petition platform was not the correct venue to solve this matter. They encouraged setnetters to present our limited 600ft fishery through the ACR process.

SUBMITTED BY: Travis Every

ACR 11

Remove provisions on 29 mesh gear in the *Kenai River Late-run King Salmon Management Plan* (5 AAC 21.359).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 21.359. *Kenai River Late-run King Salmon Management Plan*.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

The 29 mesh gear restriction. The 29 mesh gear restriction provisions are not scientifically defensible. Commercial Fisheries Research Division published a response to the Kintama report and found it not defensible by scientific standards or protocols. It was found to be speculative, theoretical, severely limited in scope and with numerous conjectures in fisheries management application without scientific merit. In addition, during the 2020 BOF meeting the Department (Commercial Fisheries Division) was asked by the Board to weigh in on this matter, but was told by the Commissioner it would be brought up later during the Committee process. It wasn't presented by Commercial Fisheries Division during the Committee process or later in the meeting, but the Board deliberated anyway and mandated "shall" to 29 mesh restrictions to the Upper Subdistrict set gillnet fisheries. The Board and Public rely on the Department to present the best available information before and during the deliberation process. However, this did not occur.

Cost was not addressed with replacement cost upwards to 8 million dollars in gear and leaving 8 million dollars in regular 45 mesh depth gear unusable.

Compounding restrictions on reduced time and area from regular periods with 51 additional EO hours available per week to either up to 48 or up to 36 hours per week with mandatory 36 hours of no fishing time (Friday window) which now became no fishing on Saturday or Sundays. Furthermore, limited 36 hours per week on sockeye salmon fisheries coupled with taking away two-thirds of regular 45 mesh gear generates a Catch per unit effort on sockeye salmon per week further hourly reduction to occur which changes the 36 hours to 12 hours of "normal fishing" time per week. The so called 600 foot openers takes away 98 percent of area and furthers a gear restriction.

However, the Board established an OEG and increased the large king goal from 13,500 to 15,000 which was the all sized king goal prior in regulation for decades. The Board is directed under 5 AAC 39.223 Policy for statewide salmon escapement goals (c) provide an estimate of expected differences in yield of any salmon stock, relative to maximum sustained yield, resulting from the implementation of an OEG. This was not presented during the 2020 Board meeting nor the gross re-allocation sockeye consequences to all other users outside of the historical set gillnet fisheries.

WHAT SOLUTION DO YOU PREFER?

Delete the use of 29 mesh gear restrictions in regulation stated above.

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

for a fishery conservation purpose or reason: Conserve the production of sockeye salmon in the Kasilof River system and Kenai late-run sockeye salmon stocks.

to correct an error in regulation: Explained in (2) above. In addition, the 29 mesh provision was placed in regulation before Commercial Fisheries Division (Research Department) reviewed the Kintama study and stated it would be premature to weigh in at that time outside of the fact that they did not agree to have this study done at that time and wanted Commercial Fisheries Research experts to outline the objectives of this study with specific measures and protocols in place consistent with prior research Commercial Fisheries had started earlier.

to correct an effect on a fishery that was unforeseen when a regulation was adopted: A recent emergency petition deliberation found several board members stating they did not foresee the foregone sockeye harvest resulting from restrictions found in 5 AAC 21.359. Commercial Fisheries Division is unable to manage and distribute escapements evenly within the Kasilof River sockeye salmon BEG goal range.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

Economic disaster affecting commercial fishing communities and future significant lost yield on sockeye salmon stocks with lower production and recruitment losses yearly.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

It is allocative - as time and area has been taken away. Including, all regular management provisions are affected in both the Kasilof River salmon management plan and Kenai late-run sockeye management plan.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

See Part (2) above and not scientifically defensible.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

Commercial set gillnet owner / operator in the Kasilof Section south of the Kasilof River.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

N/A.

SUBMITTED BY: Jeff Beaudoin

ACR 12

Modify commercial salmon set gillnet fishery in the *Kenai River Late-Run King Salmon Management Plan* (5 AAC 21.359).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 21.359 *Kenai River Late-Run King Salmon Management Plan*.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

Closing of the ESSN fishery when the unattainable escapement of 15,000-king salmon OEG will not be achieved.

WHAT SOLUTION DO YOU PREFER?

Amend 5 AAC 21.359 t read:

(d) If the projected late-run king salmon escapement is less than 15,000 king salmon 75 cm mid eye to tail fork and longer, the department shall

....

[(3) CLOSE THE COMMERCIAL SET GILLNET FISHERY IN THE UPPER SUBDISTRICT OF THE CENTRAL DISTRICT.]

(e) In order to achieve the optimal escapement goal and provide reasonable harvest opportunity, the commissioner may, by emergency order, establish fishing seasons as follows:

....

(3) in the Upper Subdistrict set gillnet commercial fishery, notwithstanding the provisions of 5 AAC 21.360(c)(1)(B), (2)(B), and (3)(B), based on the abundance of sockeye salmon returning to the Kenai and Kasilof Rivers,

....

[(D) IF PRESEASON RESTRICTIONS ARE ISSUED FOR THE LATE-RUN KENAI RIVER KING SALMON SPORT FISHERY, THEN ALL UPPER SUBDISTRICT SET GILLNET FISHERIES ARE RESTRICTED;]

...

(F) Upper Subdistrict set gillnet commercial fishing periods that are limited under this section may be limited to fishing within 600 feet of the mean high tide mark and are exempt from hour and gear limitations [IDENTIFIED UNDER (E)(3)(A) - (E) OF THIS SECTION;]

...

(h) The provisions of **(d)(3) or** (e)(3)(G) of this section do not apply to provisions of the Kasilof River Salmon Management Plan contained in 5 AAC 21.365(f) that pertain to the Kasilof Special Harvest Area. The provisions of (e)(3)(A) - (C) of this section **do not** apply to provisions of the Kasilof River Salmon Management Plan contained in 5 AAC 21.365(f) that pertain to the Kasilof River Special Harvest Area.

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

for a fishery conservation purpose or reason: Yes, the actions requested will aid in achieving the biological escapement goals for the late run Kenai king and maintaining Maximum Sustained Yields (MSY) for all other harvestable and abundant stocks of salmon within the Upper Subdistrict of the Central District of Cook Inlet. The next Cook Inlet (CI) board cycled meeting will not occur until 2024 which will result in an extraordinary burden on the optimization of the ESSN permits within CI (CFEC).

to correct an error in regulation: The Department did not allow peer reviewed documentation or analysis of the confidence in the long-range king salmon large king escapement goal in 2020. Current returns indicate a sustainable pattern of large late-run king on an average escapement of 11,500 kings.

to correct an effect on a fishery that was unforeseen when a regulation was adopted: Yes, the Alaska Board of Fisheries (BOF) could not have foreseen the massive over escapement and the massive loss of a harvestable resources at the time that they passed revisions to this management plan in 2020. A risk versus benefit determination was not presented to the board for them to deliberate on nor was the public able to comment on this ‘missing’ assessment.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

ESSN fishermen and the seafood processing sector in CI will continue to see sharp declines in productivity and profitability. Returning runs of all species of salmon will become extremely inconsistent and unstable. Sustainability will be jeopardized, and the local economy will continue to decline. Social issues will create more cost to the State as those in the seafood industry will seek assistance from the community.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

Nothing in this ACR could be considered allocative in that surplus, harvestable stock of salmon are being underutilized and wasted.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

This is not allocative in that this ACR seeks to improve the concepts of Sustained Yields or Maximum Sustained Yields which improve the access to resources equally amongst all residents of the State.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

I am an Alaskan and a resource stakeholder.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

The concepts of this ACR are not new. However, the suggested language changes are as a result of a failed management system that benefits one user group over another under the guise of conservation.

SUBMITTED BY: Paul Shadura II

ACR 13

Modify commercial salmon set gillnet fishery in the *Kenai River Late-Run King Salmon Management Plan* (5 AAC 21.359).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 21.359 *Kenai River Late-Run King Salmon Management Plan*.

On July 24, 2021, SOKI submitted an emergency petition that was placed on the Board of Fisheries agenda on a teleconferenced meeting held on August 02, 2021. The petition was not discussed as it was tabled referring to the action taken on a preceding petition. SOKI received a letter from the Department of Fish and Game dated August 10, 2021, which stated, "...require a full closure of the set net fishery if in-river fishing on late-run Kenai River king salmon was closed ...". The board: "...took no action on your petition which was effectively a denial."

SOKI believes that both regulations are incongruent and requests the board to review and discuss on record the intent of these regulations on current escapement goals.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

SOKI will be re-submitting a copy of the emergency petition as an RC. Individual points are presented here from the submission and may be used for references on this ACR.

Current escapement estimates (08.23.21); Kenai River sockeye - 2.250 million/ 200% over the SEG, Kasilof River sockeye - 550k/293% over the BEG, Kenai Late-Run king - 12,448/ 92% of the SEG (a total return of 49,792 with an enumeration rate of 25% of kings >34 " or 75 cm METF)

We remain concerned that the Kasilof River continues to be managed to exceed the BEG and OEG of sockeye.

The Kasilof River Salmon Management Plan (KRSMP) specifies that the use of the plan to achieve conservation goals for "king salmon escapement goals" by the provisions in the Kasilof River Special Harvest Area (KRSHA) directs managers to "reduce in duration", "mandatory closures" to "meet escapement goals" and "other management plans". The new language in the Kenai River Late-Run King Salmon Management Plan (KRLRKSMP) allows exemptions in the KRSHA but implies hourly restrictions and a mandated window. This is a contradiction in directives and would further hinder the final opportunity to maintain escapements within the goal and further restrict the commissioner from his statute authority to "achieve escapement goals for the management plans as the primary management objective". The Biological Escapement Goal (BEG) is the primary mandate in the Kasilof unless the Kenai River Late-Run Sockeye has not projected to achieve its minimum in-river escapement.

The KRLRKSMP demands, "close the commercial set gillnet fishery in Upper Subdistrict" and ignores all other management plans or tools that would limit efficiencies in the fishery. We believe that this again is a contradiction under the long-standing guidelines established within the Upper Cook Inlet Salmon Management Plan (UCISMP). The king plan defines "intent" to "ensure an

adequate escapement” but nowhere is there a definition of this term in SSFP. The Department is constitutionally tasked with achieving “sustainable” goals as their primary objective.

WHAT SOLUTION DO YOU PREFER?

Specifically, we are requesting that the Alaska Board of Fisheries (BOF) give clarity and direction to the Alaska Department of Fish and Game (ADF&G) through the Commissioners authority to make in-season changes utilizing his Emergency Orders (EO) powers to implement the provisions referred to in the Kasilof River Salmon Management Plan (KRSMP) and the Kasilof River Special Harvest Area (KRSHA) when projections of the Kenai Late-Run kings are projected to have a “final escapement” under an OEG of 15,000.

We ask the Board to clarify the legal definition of the KRSHA. The Department has always historically been advised by past DNR legal advisors to the Board that the Terminal Harvest areas of the Central and Northern Districts are normally closed waters as defined in “Closed waters” in regulation. The KRSHA has listed coordinates that specify the boundaries and unlike the “Fishing districts, subdistricts and sections” the Upper Subdistricts defines open waters as to where the gillnet fisheries can operate in as “open waters”. This area is separate an apart from all other fisheries in Cook Inlet in that when opened by EO only, this area is not restricted by setnet area registration and is considered open to any CFEC setnet permit holder in the SO4H area. Therefore, not an “exclusive” East Side Set Net (ESSN) prescribed fishery. Not subject to closures under 5 AAC 21.359.

We would encourage the board to discuss intent language that would give direction to the Alaska Department of Fish and Game and to the Commissioner to utilize the Kasilof Section more aggressively to maintain the Kasilof River sockeye escapements within the Biological Escapement Goals as established by the Department and codified by the Board. Action taken in 2020 by the Board amended the plan to provide for an earlier opening date of June 20th when 30,000 sockeye are projected. The Department makes their pre-season projections and restricts the Kasilof Section accordingly. The Department then makes an “in-season” assessment on or around July 14-17 (quarter point). It is SOKI’s request that within this time frame that all allowable hours be utilized including the immediate + time frame after the Friday 36-hour window to maximize the harvest of sockeye.

In the event of a less than achievable Kenai Late-Run Kenai king escapement goal after the determination date other step-down provisions that restrict time, area, method and means as prescribed within current Kasilof River Management plans would be implemented.

Specifically;

- 1) Immediately, open the set gillnet fishery within the ½ mile area within the Kasilof Section of the Central District for 36 hours per week regular fishing periods; days, and dates to be determined by the Department until August 15th.
- 2) Immediately, open the set gillnet fishery in the 600 ft area of the Kasilof Section for 12 hour or more weekly fishing periods until August 15th.
- 3) Immediately, by emergency authority, open the closed area in the Cook Inlet set gillnet fishery in the KRSHA (Terminal Area) for fishing periods until August 15, 2021.

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

for a fishery conservation purpose or reason: YES. The requested actions are for the “controlled utilization of the resources”. Maintain salmon stocks within the recommended escapement goals per the 5AAC 39.222 Policy for the Management of SSF.

to correct an error in regulation: YES. Current regulations did not address escapement goals of these magnitudes or the negative effects to the resource stakeholders or to the local and Alaskan economy. Contradictions in escapement goals between management plans create confusion amongst traditional harvesters and fisheries managers.

to correct an effect on a fishery that was unforeseen when a regulation was adopted: YES. In 2020 and again in 2021 the trend to exceed the goals have been excessive. The 2020 Upper Cook Inlet Regulatory meeting did not present information on the expected size of escapements. In fact, the Department and Board discussed adopting revised salmon escapement goals which established minimum and maximum ranges. The board and the public did not have an adequate opportunity to comment on projections of these proportions.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

New developments implemented by the NPFMC and the Department of Fish & Game resulting with the exclusion of Area 1 for the 2022 drift fishery in Cook Inlet may cause a serious concern by fisheries managers to maintain stocks within their prospective escapement goals.

Continued economic damage to the existing and historical individuals and businesses may become irreparable.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

We do not believe that this is predominately allocative as each of the returns are abundant and there is no specific need to restrict access or opportunity amongst or within user groups. However, ESSN fishers have been restricted from access to their traditional harvest and have no opportunity to harvest “alternative” stocks that are abundantly available to other individuals or user groups.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

With our explanation we do not feel that this is a substantially allocative proposal although some may revel in the systematic destruction of the ESSN fishery.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

The South K-Beach Independent Fishermen’s Association (SOKI) is an ad-hoc community group who commercial set gillnet in the Kasilof Section of the Central District of Cook Inlet.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

The basis for this ACR was from an emergency petition submitted by SOKI 07.24.21.

SUBMITTED BY: South K-Beach Independent Fishermen's Association (SOKI)

ACR 14

Clarify of intent of the *Kasilof River Salmon Management Plan* according to 5 AAC 39.200 (5 AAC 21.365).

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD.

5 AAC 21.365. *Kasilof River Salmon Management Plan*.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM.

The Kasilof River sockeye salmon stock’s sustained-yield needs effective protection. The chronic inability, despite use of specific management measures, to maintain escapements for Kasilof sockeye salmon stocks within the bounds of the BEG; i.e. a management concern as defined under 5 AAC 39.222, Policy for the management of sustainable salmon fisheries.

WHAT SOLUTION DO YOU PREFER?

Address the Application of fishery management plans as intended under 5 AAC 39.200.

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE.

for a fishery conservation purpose or reason: Yield loss (recruitment loss) on Kasilof River sockeye yield. This stock has realized less than replacement (no yield), mere replacements, and significant lost yields due to over escapements beyond the established BEG goal ranges. The Kasilof River sockeye system is a primary sockeye producing system that needs protection.

to correct an error in regulation: If this ACR is accepted, the Administrative Procedures Act would allow proposals on regulatory action for addressment.

to correct an effect on a fishery that was unforeseen when a regulation was adopted: The primary goal of UCI management plans is to protect the sustained yield of the state’s fishery resources while at the same time providing and equitable distribution of the available harvest between user groups. Regulations are “intended” to aid in the achievement of therefore apply to all fishery management plans; i.e., Kasilof River Salmon Management Plan.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE?

Recruitment loss; yield loss, and Disaster declaration memorandums.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE.

The Kasilof Section set gillnet commercial fisheries no longer operate under the Kasilof River Salmon Management Plan. Unfortunately, there is no “fair and equitable opportunity” on harvestable surplus sockeye salmon stocks.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE.

If this request is considered allocative – the Board can consider the very few large Kenai king salmon harvested during an opening before and after July 8th versus sockeye harvest levels and

economic repercussions over lost yield and management concern(s). In addition, the Ninilchik and Coho statistical areas 244-21 and 244-22 (South of the Kasilof River) CPUE harvest data on large Kenai king / sockeye should be considered within the Kasilof Section.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR.

Commercial set gillnet fisherman operating south of the Kasilof River.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING.

N/A.

SUBMITTED BY: Jeff Beaudoin