

Alaska Department of Fish and Game

2014–2015
Commercial King and Tanner
Crab Fishing Regulations



This booklet contains statewide regulations regarding **Commercial King and Tanner Crab Fisheries** in the State of Alaska. This booklet covers the period **June 2014 through August 2015** or until the 2015 booklet is available, whichever occurs first.

Note to Readers: These statutes and administrative regulations were excerpted from the Alaska Statutes (AS), and the Alaska Administrative Code (AAC) based on the official regulations on file with the Lieutenant Governor. There may be errors or omissions that have not been identified and changes that occurred after this printing. **This booklet is intended as an informational guide only. To be certain of the current laws, refer to the official statutes and the AAC.**

Changes to Regulations in this booklet: The regulations appearing in this booklet may be changed by subsequent board action, emergency regulation, or emergency order at any time. Supplementary changes to the regulations in this booklet will be available on the department's website and at offices of the Department of Fish and Game.

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Front Cover: The F/V Karin Lynn building ice during the Opilio season. Photo by and courtesy of Tim Zepplin.

ADF&G Mission Statement

The Alaska Department of Fish and Game’s mission is to manage, protect, maintain, and improve the fish, game and aquatic plant resources of Alaska. The primary goals are to ensure that Alaska’s renewable fish and wildlife resources and their habitats are conserved and managed on the sustained yield principle, and the use and development of these resources are in the best interest of the economy and well-being of the people of the state.

Guiding Principles

- Seeking excellence in carrying out its responsibilities under state and federal law, the department will:
- Provide for the greatest long-term opportunities for people to use and enjoy Alaska’s fish, wildlife and habitat resources.
- Improve public accessibility to, and encourage active involvement by the public in, the department’s decision making processes.
- Build a working environment based on mutual trust and respect between the department and the public, and among department staff.
- Maintain the highest standards of scientific integrity and provide the most accurate and current information possible.
- Foster professionalism in department staff, promote innovative and creative resource management, and provide ongoing training and education for career development.

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Commercial Fisheries Entry Commission

Juneau 789-6160

KING CRAB FISHERY

CHAPTER 34. KING CRAB FISHERY.

Article 1. Registration Areas.

5 AAC 34.001. Application of this chapter. Requirements set out in this chapter apply only to commercial fishing for king crab, unless otherwise specified. Subsistence, personal use, and sport fishing regulations affecting commercial king crab vessels or affecting any other commercial king crab fishing activity are set out in the subsistence fishing regulations in 5 AAC 02, personal use fishing regulations in 5 AAC 77, and sport fishing regulations in 5 AAC 47 – 5 AAC 75.

5 AAC 34.005. Registration areas established. (a) The following are king crab registration areas and their code letters:

Code Letter

- A – Southeastern Alaska Area (5 AAC 34.100)
- D – Yakutat Area (5 AAC 34.160)
- E – Prince William Sound Area (5 AAC 34.200)
- H – Cook Inlet Area (5 AAC 34.300)
- K – Kodiak Area (5 AAC 34.400)
- M – Alaska Peninsula Area (5 AAC 34.500)
- O – Aleutian Islands Area (5 AAC 34.600)
- T – Bristol Bay Area (5 AAC 34.800)
- Q – Bering Sea Area (5 AAC 34.900)

(b) Each registration area identified in (a) of this section shall be designated as one of the following:

(1) superexclusive registration area: a king crab vessel that has been validly registered to take king crab in a king crab superexclusive registration area may not be used to take the same species of king crab in any other king crab registration area during the same registration year;

(2) exclusive registration area: unless otherwise provided in this chapter, a king crab vessel that has been validly registered to take king crab in a king crab exclusive registration area may not be used to take the same species of king crab in any king crab superexclusive registration area or in any other king crab exclusive registration area during the same registration year;

(3) nonexclusive registration area: during the same registration year, a king crab vessel may be registered to take the same species of king crab in one or more of the king crab nonexclusive registration areas and registered to take the species of king crab for one king crab exclusive registration area, but may not be used to take the same species of king crab in any king crab superexclusive registration area or in more than one king crab exclusive registration area.

5 AAC 34.010. Application of regulations. (a) Unless otherwise specified in this chapter, the regulations in this chapter applicable to a king crab registration area also apply to the adjacent waters of the exclusive economic zone.

(b) The commissioner may suspend the application of this section to all or a portion of

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the waters of the exclusive economic zone adjacent to a king crab registration area if the commissioner finds that

(1) application of this section fails to facilitate enforcement of regulations applicable to a registration area;

(2) application of this section fails to protect or conserve king crab inhabiting territorial waters of Alaska; or

(3) the state has an insufficient interest in the king crab inhabiting the waters of the exclusive economic zone to warrant extension of the jurisdiction of the state to the exclusive economic zone.

(c) For the purposes of this chapter, "exclusive economic zone" means all the waters adjacent to a king crab registration area and seaward to a boundary line drawn in such a manner that each point on the line is 200 nautical miles from the baseline from which the territorial sea is measured.

5 AAC 34.020. King crab area registration. (a) In addition to the requirements of 5 AAC 39.120 and unless otherwise specified in this chapter, the vessel owner, or the owner's agent, shall validly register a king crab vessel for a king crab registration area before using that vessel to take king crab in that registration area and the exclusive economic zone adjacent to the registration area.

(b) The king crab vessel registration year is June 28 – June 27.

(c) The department shall issue a registration certificate to a king crab vessel if the vessel owner, or the owner's agent, completes a registration form available from the local representative of the department, and if the vessel is licensed and otherwise in compliance with AS 16 and this title. The vessel owner, or the owner's agent, shall sign the registration certificate when it is issued and shall keep it on board the vessel and immediately available at all times during fishing operations. The registration certificate must be shown upon request to any peace officer of the state.

(d) In a king crab registration area, district, or section where tank inspections are required, a vessel registration is not valid until the vessel has had a tank inspection. A tank inspection is not complete unless, at the time of inspection, there is on board the vessel the holder of a valid CFEC interim use or limited entry permit, with the permit in possession, for the registration area or district and the king crab species for which the vessel is registered. Successful completion of the inspection validates the vessel's registration for a registration area. If an inspection is not required in a registration area, compliance with (c) of this section validates the registration.

(e) A vessel shall be issued an inspection certificate upon successful completion of an inspection required by this chapter or 5 AAC 34.030. An inspection is not complete unless a current registration certificate for the king crab registration area is shown to the local representative of the department conducting the inspection. The vessel owner, or the owner's agent, shall sign the inspection certificate and shall keep it on the vessel and available at all times during fishing operations. The inspection certificate must be shown upon request to any peace officer of the state.

(f) The department may invalidate a vessel registration to permit the vessel to be used to take crab in other king crab registration areas, except that once a vessel has been inspected for a superexclusive or exclusive registration area, the department may not invalidate a vessel registration in order to permit the vessel to be used to take king crab in another

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superexclusive or exclusive registration area.

(g) Unless otherwise specified in this title, a vessel validly registered to take king crab in a king crab registration area may not be used to take any other species of crab in any other king crab registration area at the same time. A vessel may not be validly registered for more than one king crab registration area at a time.

(h) A vessel owner, or the owner's agent, may register to take one or more species of king crab within a king crab registration area. A vessel registered for a specific species of king crab in a king crab registration area shall comply with all of the registration requirements in this section for that registration area.

(i) The owner, or the owner's agent, of a vessel landing king crab in a registration area other than the area in which the vessel is validly registered at the time under this section shall attach the inspection certificate issued under (c) of this section to the back of the department copy of the fish ticket at the time the king crab are landed.

(j) The commissioner may authorize late registration of a replacement king crab vessel in the event of the loss of a vessel registered for a specific king crab registration area. A replacement vessel authorized to register late shall be registered only for the king crab registration area in which the lost vessel was registered. In order to be authorized to register a replacement vessel under this subsection, the vessel owner, or the owner's agent, shall submit written documentation verifying the loss of the vessel. For purposes of this subsection, "loss of a vessel" means that due to sinking or destruction the vessel is incapable of being used to take king crab during the king crab season in the registration area for which the vessel is registered.

(k) Unless otherwise specified in this chapter, a king crab vessel registration is invalid 24 hours following the closure of the season for that king crab registration area.

(l) If a deadline for vessel registration for a king crab fishery falls on a Saturday, Sunday, or state holiday, the registration deadline is extended to 5:00 p.m. the next state working day.

5 AAC 34.030. Inspection requirements. (a) Unless otherwise specified in this chapter and (b) of this section, within 24 hours before a season opening or at any time during the open season before taking or processing king crab, a king crab vessel registered for a registration area must have its holds or live tanks inspected by a local representative of the department at inspection points specified in this chapter. Unless otherwise specified in this chapter, king crab may not be on board the vessel at the time of inspection. Successful completion of the inspection validates the vessel's registration for the registration area. During the period 24 hours before the season opening in a registration area until the season closure in that area, the inspection requirements of this section do not apply to a registered king crab vessel that does not have a saltwater circulation system in its holds or live tanks. If an inspection is not required, completion of the registration form validates the registration.

(b) By announcement, the commissioner may require vessel inspection for a registration area that is exempt from the requirements of this section.

5 AAC 34.031. Landing requirements. (a) Except as provided in (b) of this section, a king crab vessel must land all king crab in the registration area for which it is validly registered at the time of the landing.

(b) The owner, or the owner's agent, of a king crab vessel validly registered for a registration area that intends to land king crab in another registration area shall contact by radio or telephone a local representative of the department for authorization before leaving the

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registration area for which that vessel is registered and shall submit to an inspection at a location specified by the representative. The vessel owner, or the owner's agent, shall contact the representative located in the registration area for which that vessel is validly registered at the time of the contact. A vessel landing king crab under an authorization granted under this subsection may not, at the time of landing its catch, have more king crab on board than were present at the time of the inspection. If the local representative of the department does not require an inspection under this subsection, the vessel owner, or the owner's agent, making radio or telephone contact shall state to the representative the amount of king crab on board at the time of the contact. A vessel authorized to land king crab in another registration area without an inspection may not land 10 percent more or less king crab than the amount stated at the time of the contact with the representative.

(c) When a king crab vessel lands king crab in another registration area under an authorization granted under (b) of this section, the registration under which the vessel is operating becomes invalid. In order to again become validly registered for an area, the vessel must comply with 5AAC 34.030 or the inspection requirements for a specific registration area otherwise specified in this chapter.

(d) The commissioner may suspend any or all of the requirements of (b) and (c) of this section for a specific registration area if the commissioner determines that to do so would be in the public interest.

(e) Unless otherwise specified in this chapter, after 24 hours following the closure of any registration area for specified species of king crab, a king crab vessel registered for that area may not have that species of king crab on board in waters subject to the jurisdiction of the state unless

(1) the vessel is otherwise in compliance with 5 AAC 34.020 and 5 AAC 34.030;

(2) except in Registration Areas O, T, and Q, the vessel owner, or the owner's agent, has contacted, in person or by radio or telephone, a local representative of the department at a landing port or inspection point specified in this chapter or by the department, and the representative has authorized the extended possession of king crab; contact with the representative must be made within the 24-hour period following the season closure for that species of king crab in the registration area;

(3) the vessel owner, or the owner's agent, who catches and processes king crab has complied with the pot storage requirements in 5 AAC 34.052(a)(1), the landing requirements specified in this subsection or for a specific registration area otherwise specified in this chapter, and has contacted a local representative of the department within the times specified in this subsection or for a specific registration area otherwise specified in this chapter, and the representative has authorized extended possession of king crab for purposes of processing or transportation;

(4) if the king crab are processed, no more than 90 days have passed since the closure of the registration area, and the vessel is carrying a department approved onboard observer for the entire period; during the 90-day period the department may waive the requirement of 5 AAC 34.030 prohibiting the presence of king crab on board a vessel during tank inspection.

(f) The owner, or the owner's agent, of a king crab vessel that has sunk or upon which the death of a crewmember has occurred that prevents timely removal or storage of gear at the time of closure, as specified in 5 AAC 34.052, may apply to the commissioner for a permit to sell legal size male king crab taken when the pots are retrieved by the owner, or the

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owner's agent, after the king crab season is closed in the registration area. The application must be made within 14 days after the sinking of the vessel or death of a crewmember as described in this subsection. A fish ticket for any delivery made under this subsection must attribute the harvest of the king crab to the lost vessel or the vessel upon which the death of a crewmember has occurred.

(g) A catcher-processor vessel carrying processed king crab out of state waters that had 100 percent onboard observer coverage during the fishing season, is not required to carry an onboard observer while transiting out of state waters if

(1) the vessel departs to the port where it will off-load its king crab within 21 days after departing the registration area;

(2) the vessel owner, or the owner's agent, gives a check out/check in report by notifying the department at least 24 hours in advance of the vessel's departure time and of its estimated time of arrival at the port where the vessel will off-load king crab;

(3) the vessel has a pre-transit inspection by the department before departing;

(4) the vessel proceeds immediately and directly to the port where it will off-load king crab;

(5) the vessel owner, or the owner's agent, notifies the department upon arrival at the port where the vessel will off-load king crab;

(6) the vessel owner, or the owner's agent, complies with any department request for copies of off-load shipping documents; and

(7) the vessel owner, or the owner's agent, cooperates with a department request for an independent third party verification of an off-loading under this section.

5 AAC 34.033. Tenders for king crab. (a) A vessel used to tender king crab for a vessel validly registered to take king crab may not have king crab gear or equipment on board the tendering vessel and may not use that vessel to take king crab.

(b) Before engaging in any tendering operation, the operator of a tendering vessel shall register that vessel with a local representative of the department within the king crab registration area, district, or section in which the operator intends to operate that vessel.

(c) Before leaving a king crab registration area, district, or section for which it is registered, the operator of a tendering vessel shall contact in person, or by radio or telephone, a local representative of the department in the registration area where the vessel is operating. At the time of the contact with the representative, the tendering vessel operator shall state the number of king crab on board the vessel and the vessel's unloading destination. To comply with the requirements of this subsection, the operator of a tendering vessel in Registration Area O, Q, or T must contact a local representative of the department in Dutch Harbor.

5 AAC 34.035. Closure of king crab registration areas and appeal procedure. Within five days following the closure of a king crab registration area or portion of a registration area, the holder of a valid CFEC interim use or limited entry permit, or the vessel owner, or the owner's agent, of a king crab vessel that was validly registered for that area, may formally request, in writing, that the commissioner reopen the area. The commissioner shall consider all relevant information concerning the condition of king crab stocks within the closed registration area. Within 14 days after the receipt of the request, the commissioner shall publicly announce a decision to retain the closure or reopen the registration area or portion of the registration area by emergency order.

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5 AAC 34.040. Partial closure of registration areas. (a) Pursuant to the procedures set out in 5 AAC 34.035, the commissioner may close a registration area for certain species of king crab.

(b) Unless otherwise specified in 5 AAC 34, after 24 hours following the closure of any registration area for specified species of king crab, no vessel registered for that area may have that species of king crab on board in waters subject to jurisdiction of the state unless the

(1) vessel is validly registered for another registration area and the area is open for that species of king crab;

(2) vessel is otherwise in compliance with 5 AAC 34.020 and 5 AAC 34.030;

(3) vessel operator has contacted, in person or by radio, a local representative of the department at a landing port or inspection point specified in 5 AAC 34 or by the department, and the representative has authorized the extended possession of crab; contact must be made within the 24-hour period following the season closure for that species of king crab in the registration area, or any district in Area Q.

(c) The provisions of 5 AAC 34.035 shall apply to partial closures.

(d) Unless otherwise stated, all references in this chapter to closures of registration areas shall not be deemed applicable to partial closures.

5 AAC 34.045. Discretionary openings. In areas where the commissioner is authorized to open the season by emergency order, the commissioner may delay the opening beyond the earliest date specified in the regulations if he finds that such delay would affect preservation of the public peace, health, safety, or general welfare.

Article 2. General Provisions.

5 AAC 34.050. Lawful gear for king crab. Unless otherwise specified in this chapter,

(1) king crab may be taken only with king crab pots; king crab taken by other means must be returned to the water without further harm;

(2) a king crab pot is a pot that is no more than 10 feet long by 10 feet wide by 42 inches high with rigid tunnel eye openings that individually are no less than five inches (13 cm) in any one dimension with tunnel eye opening perimeters that individually are more than 36 inches (91.4 cm) or a pot that is no more than 10 feet long by 10 feet wide by 42 inches high and that tapers inward from its base to a top consisting of one horizontal opening of any size;

(3) during the open season for king crab, all shellfish pots, other than those described as Dungeness crab, Tanner crab, or shrimp pots, must conform to the specifications in (2) of this section.

5 AAC 34.051. King crab gear marking requirements. (a) At least one buoy on each king crab pot or ring net must be legibly marked with the permanent ADF&G vessel license plate number of the king crab vessel operating the gear. The buoy must bear only the number of the vessel used in operating the gear. The number shall be painted on the top one-third of the buoy in numerals at least four inches high, one-half inch wide, and in a color contrasting to that of the buoy. The buoy markings must be visible on the buoy above the water surface when the buoy is attached to the crab pot.

(b) In registration areas where a king crab pot limit is in effect, each king crab pot must have one identification tag issued by the department placed on the main buoy or on the

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trailer buoy if more than one buoy is attached to the pot.

(c) Identification tags are issued before each fishing season, are uniquely numbered for each registration year, and will be issued at the time of vessel registration for that vessel only. The vessel owner, or the owner's agent, shall apply for identification tags at a department office designated to issue the tags. Replacement of tags lost during the season is permitted if the vessel operator submits a sworn statement or affidavit describing how the tags were lost and listing the numbers of the lost tags. Tags shall be renewed annually before each fishing season.

5 AAC 34.052. King crab gear storage requirements. (a) Unless otherwise specified in this chapter, during the closed season for king crab in a registration area, king crab pots must be removed from the water, except rectangular king crab pots with all bait and bait containers removed and all doors secured fully open, and cone or pyramid king crab pots with all bait and bait containers removed and all doors not secured closed, may be stored in waters

- (1) of 25 fathoms or less in depth; or
- (2) deeper than 25 fathoms for only

(A) seven days following the season closure for king crab in a registration area; or

(B) 72 hours following the closure of any district, portion of a district, or portion of the registration area.

(b) Unless otherwise specified in this chapter, king crab pots with all doors secured fully open and with all bait containers removed may be stored in water deeper than the maximum permissible depth if the vessel owner, or the owner's agent, has contacted, in person or by radio or telephone, the local representative of the department at a landing port or inspection point specified in this chapter or by the department, and has been granted an extension of time to remove and store pots due to a major vessel breakdown or extreme weather conditions.

(c) A pot stored under this section may not have any portion of the line attaching the pot to a buoy or buoys floating on the surface of the water at any time, except for that portion of the line connecting the main buoy to an auxiliary buoy or buoys.

(d) The provisions of this section may be modified by regulations in effect for other specified registration areas.

5 AAC 34.053. Operation of other pot gear. Unless otherwise specified in 5 AAC 31 – 5 AAC 38,

(1) a person or vessel that operates commercial, subsistence, personal use, or sport pots, during the 14 days immediately before the opening of a commercial king crab season in a king crab registration area, may not participate in the commercial king crab fishery in the king crab registration area or, with respect to Registration Area Q, in that district or section of Registration Area Q, where the fishing with pots occurred, except that a person or vessel is not disqualified from the commercial king crab fishery by placing king crab pots with bait and bait containers removed and with the doors secured open in waters that are 25 fathoms or less in depth or as otherwise specified in 5 AAC 34; a person or vessel that participates in a commercial king crab fishery in a king crab registration area or, with respect to Registration Area Q, in that district or section of Registration Area Q where the fishing with pots occurred, may not operate commercial, subsistence, sport, or personal use pots in that registration area during the 14 days after the close of the commercial king crab season; a vessel or person may operate commercial, subsistence, sport, or personal use

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pots in a king crab registration area after putting king crab pots in storage, as specified in 5 AAC 34.052, and, unless the registration is already invalidated under 5 AAC 34.020(k), after invalidating the vessel's king crab registration by contacting, in person, a local representative of the department;

(2) during a commercial king crab fishery, a person or vessel validly registered for that fishery may not operate commercial, subsistence, sport or personal use pots other than commercial king crab pots, except that a person or vessel may stop participating in the commercial king crab fishery and instead operate commercial pots other than king crab pots if

(A) the king crab pots are put in storage as specified in 5 AAC 34.052; and

(B) the vessel owner, or the owner's agent, contacts a representative of the department, in person, and requests that the king crab registration be invalidated.

5 AAC 34.055. Permits for processing vessels. The owner or operator of a vessel used in the processing of king crab must obtain a permit from the department before starting processing operations. The permit must contain the following requirements:

(1) reporting of vessel location to the department;

(2) reporting of harvesting or processing operations to the department;

(3) reporting of unloading and transport operations to the department;

(4) permission for local representatives of the department to inspect, at any time, the vessel's holds, live tanks, freezers, processing areas, and processed and unprocessed king crab; and

(5) reporting of any other information required by the department for the conservation and development of king crab resources.

5 AAC 34.057. Postseason king crab pot recovery permit. (a) The department may issue, under the provisions of this section, a permit for Registration Area O, Q, or T to a person or vessel to recover

(1) lost king crab pot gear belonging to another vessel or person; or

(2) king crab pot gear for a vessel that has experienced a major mechanical breakdown.

(b) The permit issued under this section may specify

(1) requirements for a vessel area check-in and check-out procedure to be used by the vessel or person;

(2) requirements for the vessel or person to notify the department by radio, telephone, or telex, at the beginning and the completion of the pot gear recovery operations;

(3) requirements for vessel tank inspections before, and at the conclusion of, the pot gear recovery operations at locations specified by the department;

(4) other necessary conditions as determined by the department.

(c) Before receiving a permit under this section to recover king crab pot gear belonging to another vessel or person, the permit applicant must furnish to the department written authorization for the requested pot gear recovery from the owner of the lost gear or the owner or operator of the vessel experiencing a major mechanical breakdown. If the recovery permit is being issued to recover lost pot gear, the authorization must contain the last known location of the king crab pots and specific identification markings. If the recovery

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permit is being issued due to a major mechanical breakdown of a vessel, the authorization must include the exact location of the king crab pots and specific identification markings and a written explanation by a qualified repair facility detailing the extent of the damage and estimated time for repairs.

(d) Pot gear recovery operations under this section may only be performed during a closed season and may not be conducted by or for any vessel or person that, at the time of pot gear recovery operations, is registered for any pot fishery in Registration Areas O, Q, or T.

(e) All crab remaining in any pot gear recovered under this section must be immediately returned to the sea without further harm.

5 AAC 34.060. Size limit for king crab. (a) Male king crab seven inches (178 mm) or greater in width of shell may be taken or possessed, unless otherwise provided in 5 AAC 34.

(b) Width measurement of king crab shall be the straight-line distance across the carapace at a right angle to a line midway between the eyes to the midpoint of the posterior portion of the carapace and shall include the spines.

5 AAC 34.065. Female and undersize king crab. Male king crab less than minimum size and female king crab may not be taken or possessed. Such king crab which have been taken must be immediately returned unharmed to the sea.

5 AAC 34.075. Reporting of king crab catches lost or not purchased. (a) Each king crab fisherman shall indicate on the fish ticket at the time of landing any king crab harvested which are not purchased by the processor or buyer, or which have been dumped at sea.

(b) Each buyer of king crab shall indicate on the fish ticket any king crab which was not purchased from a load.

5 AAC 34.080. Harvest strategy. The department shall establish an annual harvest strategy for each king crab stock which is consistent with the board's policy statement on king crab resource management, 90-04-FB, March 23, 1990, hereby adopted by reference. If adequate data are available, the department shall establish a threshold level of abundance and shall close the fishery during the entire fishing season on any stock that is below its threshold level of abundance. Data used to determine guideline harvest levels and, if appropriate, exploitation rates, may include estimates of exploitable biomass, estimates of recruitment, estimates of threshold, estimates of accepted biological catch, historical fishery performance data, estimates of reproductive potential, and market or other economic considerations. The department may not change current harvest strategies without review by the board, except for those changes already permitted by 5 AAC 34.035.

Editor's note: Copies of the policy statement adopted by reference in 5 AAC 34.080 are available on page 163 of this booklet, at regional offices of the Department of Fish and Game, and from the department's Juneau office, P.O. Box 115526, Juneau, Alaska 99811-5526.

5 AAC 34.081. Definitions of "rigid" as applied to tunnel eye openings. In this chapter, "rigid," as applied to king crab pot tunnel eye openings, means that after placing 20 pounds of pressure, in any direction, anywhere around the perimeter of the tunnel eye opening, the opening is no larger than a maximum dimension allowed under this chapter.

Article 3. Conditions for License and Permits.

5 AAC 34.082. Permits for *Lithodes couesi* king crab. (a) Male king crab of the species *Lithodes couesi* may be taken in Registration Areas K, M, O, Q, and T only under the conditions of a permit issued by the commissioner.

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(b) *Lithodes couesi* may be taken only with pots as follows:

(1) in Registration Areas K and M,

(A) pots may be longlined;

(B) no more than 150 large pots or 300 small pots may be operated from a vessel, except that in Registration Area K no more than 75 large pots or 150 small pots may be operated from a vessel;

(C) for purposes of this paragraph, a small pot is a pot that is no more than 20 feet in perimeter and no more than 42 inches high, and a large pot is a pot that is more than 20 feet in perimeter and no more than 42 inches high;

(2) in Registration Areas O, Q, and T, pots may be longlined only in locations where the longlining of pots is permitted for golden king crab.

(c) Fishing operations are restricted to waters 200 fathoms or greater in depth, unless the fishery for golden king crab in that location is closed and an alternate depth is specified in the permit.

(d) The permit required in (a) of this section

(1) may, notwithstanding (c) of this section, restrict the depth of fishing operations;

(2) may specify season dates; the season may be closed during periods before and after shellfish fisheries;

(3) may specify areas of fishing operations by registration area or by district;

(4) may establish minimum size limits;

(5) may require an onboard observer during all operations;

(6) may require a logbook report of operations; and

(7) may, notwithstanding (b) of this section, specify the type, size, and configuration of pots; pots must include an escape mechanism designed to allow female and undersize male crab to exit the pot during fishing operations.

(e) Participation in exclusive or superexclusive king crab fisheries does not exclude a vessel or permit holder from participation in this permit fishery in any area during periods when other king crab fisheries in that area are closed.

(f) Except as provided in (b) of this section, the pot limits specified in the registration areas described in 5 AAC 34 for king crab do not apply to *Lithodes couesi* king crab.

Article 5. Registration Area A (Southeastern).

5 AAC 34.100. Description of Registration Area A. Registration Area A has as its southern boundary the International Boundary at Dixon Entrance, and as its northern boundary a line extending seaward from the western tip of Cape Fairweather at 58° 47.89' N. lat., 137° 56.68' W. long. to the intersection with the seaward limit of the three-nautical-mile territorial sea at 58° 45.91' N. lat., 138° 01.53' W. long.

5 AAC 34.105. Description of Registration Area A districts. Registration Area A districts are described in 5 AAC 33.200.

5 AAC 34.107. Description of golden king crab fishing areas within Registration Area A. (a) Northern Area: all waters of Section 11-A, Section 13-C, and Section 13-A in Peril Strait east of Point Kakul at 57° 21.83' N. lat., 135° 41.42' W. long., and all waters

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of Districts 12 and 15.

(b) Icy Strait Area: all waters of District 14.

(c) North Stephens Passage Area: all waters of Sections 11-B and 11-C.

(d) East Central Area: all waters of Section 11-D, District 10, and District 9 east of a line from Kingsmill Point at 56° 50.00' N. lat. 134° 25.17' W. long. to Point Gardner at 57° 01.00' N. lat., 134° 37.00' W. long., all waters of District 8 north of the latitude of Blaquiere Point at 56° 35.00' N. lat., all waters of Section 6-A, and all waters of District 5 north of the latitude of Point Baker at 56° 21.53' N. lat.

(e) Mid-Chatham Strait Area: all waters of District 9 north of the latitude of Point Ellis at 56° 33.67' N. lat. and west of a line from Kingsmill Point to Point Gardner.

(f) Lower Chatham Strait Area: all waters of District 9 south of the latitude of Point Ellis at 56° 33.67' N. lat., and that portion of District 13-B south of the latitude of Redfish Cape at 56° 18.67' N. lat.

(g) Southern Area: all waters of District 1 and District 2, all waters of District 6 south of a line from Point Colpoys at 56° 20.18' N. lat., 133° 11.90' W. long., to Macnamara Point at 56° 20.18' N. lat., 133° 03.54' W. long., and all waters of District 7 south of the latitude of Point Eaton at 55° 56.80' N. lat.

5 AAC 34.108. Description of blue king crab fishing areas within Registration Area A.

(a) The waters of District 10 in Holkham Bay east of a line from Point Coke to Point Ashley.

(b) The waters of District 11

(1) in Taku Inlet north of the latitude of Point Bishop;

(2) in Port Snettisham east of a line from Point Styleman to Point Anmer.

(c) The waters of District 14 in Glacier Bay north of the latitude of Point Gustavus.

(d) The waters of District 15 in Lynn Canal north of the latitude of Point Sherman Light.

5 AAC 34.109. Area A registration. (a) Registration Area A is an exclusive registration area.

(b) Notwithstanding 5 AAC 34.005(b) and 5 AAC 34.020(e), a vessel registered for Registration Area A may also be used to take king crab in Registration Area D if the vessel owner, or the owner's agent, has had the registration for Registration Area A invalidated and has registered the vessel in Registration Area D. A vessel registered for Registration Area D may also be used to take king crab in Registration Area A if the vessel owner, or the owner's agent, has had the registration for Registration Area D invalidated and has registered the vessel in Registration Area A.

(c) In Registration Area A, a king crab registration remains valid throughout the registration year unless it is invalidated under (b) of this section or another provision of this chapter.

(d) In Registration Area A, the vessel registration under 5 AAC 34.020 must be completed no later than 30 days before the scheduled opening date of the commercial king crab season.

(e) Before a vessel that is registered to fish for both golden king crab and Tanner crab in Registration Area A may be used to fish for golden king crab in a portion of Registration Area A that is closed to commercial Tanner crab fishing, all Tanner crab must be removed from the vessel and the vessel owner, or the owner's agent, must have the vessel's Tanner crab registration invalidated by the department. Once the vessel's Tanner crab registration is invalidated, Tanner crab may not be retained on or sold from that vessel.

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(f) Before a vessel that is registered to fish for only golden king crab in Registration Area A may be registered to fish for Tanner crab in Registration Area A, the vessel owner, or owner's agent, must remove all gear operated from that vessel from the waters of that portion of Registration Area A that is closed to commercial Tanner crab fishing.

5 AAC 34.110. Fishing seasons for Registration Area A. (a) Male red king crab may be taken only from 12:00 noon November 1 through January 24.

(b) Male golden king crab may be taken only from 12:00 noon on the date with the smallest Juneau tidal range between February 10 and February 17, as announced by emergency order, until the season is closed by emergency order.

(c) Repealed 6/30/83.

(d) Repealed 8/14/2005.

(e) Male blue king crab may be taken only during the open red and golden king crab and Tanner crab seasons.

(f) A season opening may be delayed if the National Weather Service forecast for the major fishing areas in the Southeast Region contains gale force wind warnings of 35 knots and higher on the 4:00 a.m. forecast for the day preceding the start date and the following day, in which case the season opening in all sections of Registration Area A eligible for a season opening will be delayed 24 hours and announcement of this delay will be issued 24 hours before the start of the fishery. If after the initial delay gale warnings continue region-wide, the season opening in all eligible sections may be delayed an additional 24 hours. A season opening delay may continue on a rolling 24-hour basis. For the purposes of this subsection, the corresponding National Weather Service forecast areas considered within the Southeast Region are as follows:

- (1) Southern Lynn Canal;
- (2) Northern Chatham Strait;
- (3) Stephens Passage;
- (4) Frederick Sound.

5 AAC 34.111. Section 11-A Red and Blue King Crab Management and Allocation Plan. (a) The Board of Fisheries (board) find that there exists strong competing demands between the personal use and commercial user groups for red and blue king crab in Section 11-A of the Southeastern Alaska Area. The board finds that personal use of red and blue king crab in the Juneau area is a historical use, that this use has grown in recent years concurrent with the growth of the king crab population in Section 11-A, and that there are both summer and winter components to the personal use fishery. The board also finds that the commercial use of red and blue king crab in Section 11-A is historical, economically important, and should be maintained.

(b) When managing red and blue king crab in Section 11-A, the board authorizes the department to conduct the personal use and commercial fisheries according to the following allocation plan:

- (1) personal use fishery from July 1 through September 30 (summer season) – 50 percent of the red king crab guideline harvest level;
- (2) personal use fishery from October 1 through March 31 (winter season) – 10 percent of the red king crab guideline harvest level;

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(3) commercial fishery – 40 percent of the red king crab guideline harvest level when the general season is open under 5 AAC 34.110;

(4) repealed 7/29/2009.

(c) The board finds that the personal use red and blue king crab fishery should be conducted so that the summer and winter seasons last as long as possible within the allocation plan described in (b) of this section. To accomplish this objective the commissioner may close, by emergency order, a personal use red and blue king crab season and immediately reopen a personal use red and blue king crab season during which any of the following restrictions, selected at the discretion of the commissioner, are in effect:

- (1) the daily bag and possession limit is one male king crab per person;
- (2) the daily bag and possession limit is two male king crab per person;
- (3) no more than one pot per vessel may be used to take king crab;
- (4) no more than two pots per vessel may be used to take king crab;
- (5) no more than three pots per vessel may be used to take king crab;
- (6) there is a seasonal per person limit for king crab, established by the commissioner.

5 AAC 34.112. Harvest of parasitized king crab. Notwithstanding the provisions of 5 AAC 34.060 and 5 AAC 34.065, all king crab, male, female, and sub-legal, that have the barnacle parasite *Briarosaccus callosus* or a scar of the parasite under the flap, may be taken for commercial sale during open commercial fishing seasons. The external reproductive organ of the parasite must be removed from all crab before the crab is placed in a live tank and must be retained on board the vessel, out of contact with sea water, and transferred to the processor for disposal.

5 AAC 34.113. Southeast Alaska Red King Crab Management Plan. (a) The Southeast Alaska red king crab fishery shall be managed consistently with the board's "Policy on King and Tanner Crab Resource Management" (90-04-FB, March 23, 1990), adopted by this reference, and according to the principles set out in this section.

(b) The department shall close an area if the abundance of various sizes of male and female crabs is inadequate to provide for a sustained harvest, or when potentially high effort precludes an orderly fishery.

(c) The department shall close the fishery if the department's estimate of the available harvest is below the minimum threshold of 200,000 pounds of legal male red king crab.

(d) The department shall determine an appropriate harvest rate before the opening of the fishery. The harvest rate is the percentage of the legal males that can be harvested while providing for the long-term reproductive viability of red king crab stocks. The department shall base the harvest rate on estimates of abundance of the various size classes of male and female crabs, and on factors affecting the reproductive viability of the stock.

(e) The department shall determine the guideline harvest level before each fishing season. The guideline harvest level is the sum of the estimates of sustainable harvest for each fishing district. If stock assessment data are not available, the guideline harvest level will be based on historical fishery performance, catch, and population information. A lack of adequate information will result in conservative management.

Editor's note: Copies of the board policy adopted by reference in 5 AAC 34.113 are available on page 163 of this booklet, at regional offices of the Department of Fish and Game,

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and from the department's Juneau office, P.O. Box 115526, Juneau, Alaska 99811-5526.

5 AAC 34.114. Southeast Alaska Golden King Crab Management Plan. (a) The Southeast Alaska golden king crab fishery shall be managed consistently with the board's *Policy on King and Tanner Crab Resource Management* (90-04-FB, March 23, 1990), adopted by this reference, and according to the principles set out in this section.

(b) To the extent possible, golden king crab shall be managed as a separate stock in each defined fishing area. The department shall close an area if the abundance of various sizes of male crabs is inadequate to provide for a sustained harvest, or when potentially high effort precludes an orderly fishery.

(c) The department shall base management on historical fishery performance, catch, and population structure information. A lack of adequate information will result in conservative management.

Editor's note: Copies of the board policy adopted by reference in 5 AAC 34.114 are available on page 163 of this booklet, at regional offices of the Department of Fish and Game, and from the department's Juneau office, P.O. Box 115526, Juneau, Alaska 99811-5526.

5 AAC 34.115. Guideline harvest ranges for Registration Area A. (a) Repealed 6/24/93.

(b) In Registration Area A, the guideline harvest ranges for the taking of golden king crab in the following areas are:

- | | |
|----------------------------------|----------------------|
| (1) Northern Area: | 0 to 175,000 pounds; |
| (2) Icy Strait Area: | 0 to 75,000 pounds; |
| (3) North Stephens Passage Area: | 0 to 25,000 pounds; |
| (4) East Central Area: | 0 to 300,000 pounds; |
| (5) Mid-Chatham Strait Area: | 0 to 150,000 pounds; |
| (6) Lower Chatham Strait Area: | 0 to 50,000 pounds; |
| (7) Southern Area: | 0 to 25,000 pounds. |

5 AAC 34.120. Size limits for Registration Area A. In Registration Area A, only male king crab seven inches or greater in width of shell may be taken or possessed except that

(1) male king crab less than seven inches in width of shell may be transported through or into the registration area for the purpose of delivery to a processor; king crab may not be taken in the registration area until after delivery of king crab taken in areas with minimum sizes of less than seven inches;

(2) repealed 12/26/97;

(3) male blue king crab six and one-half inches or greater in width of shell may be taken or possessed;

(4) male golden king crab six and one-half inches or greater in width of shell may be taken or possessed in the Lower Chatham Strait and Southern Areas only during periods established by emergency order.

5 AAC 34.125. Lawful gear for Registration Area A. (a) King crab may be taken only by king crab pots, except that golden king crab taken in Tanner crab pots as described in 5 AAC 35.125(f) may be retained if the CFEC permit holder fishing for Tanner crab is also registered to fish for golden king crab and both crab fisheries are open at the same time. King crab taken

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by other means must be returned to the water without further harm.

(b) The following king crab pot limits are in effect in Registration Area A:

(1) during the commercial red king crab season, the maximum number of king crab pots that may be operated from a vessel registered to fish for king crab is as follows:

(A) no more than 20 king crab pots when the guideline harvest level is at least 200,000 but not more than 399,999 pounds;

(B) no more than 30 king crab pots when the guideline harvest level is at least 400,000 but not more than 499,999 pounds;

(C) no more than 40 king crab pots when the guideline harvest level is at least 500,000 but not more than 599,999 pounds;

(D) no more than 50 king crab pots when the guideline harvest level is 600,000 pounds or more;

(2) when the commercial golden king crab season is open in Registration Area A, and the commercial red king crab or Tanner crab season is closed, no more than 100 king crab pots may be operated from a vessel registered to fish for king crab;

(3) when the commercial golden king crab and Tanner crab seasons are open in Registration Area A at the same time, an aggregate of no more than 80 king and Tanner crab pots may be operated from a vessel registered to fish for both king crab and Tanner crab;

(4) when the commercial red and golden king crab seasons are open in Registration Area A at the same time, the pot limits described in (1) of this subsection apply to any vessel registered to fish for king crab.

(c) Before November 1, 2006, king crab pots must have either at least one-third of one vertical surface of the pot composed of not less than nine-inch stretch mesh webbing or have at least four circular escape rings of six and one-quarter inches minimum inside diameter. Each vertical surface of a pot using escape rings must contain at least one escape ring of six and one-quarter inches minimum inside diameter. Escape rings or stretch mesh webbing must be so located on the vertical plane to permit the escapement of undersize crab. Beginning November 1, 2006, king crab pots must have either at least the bottom one-third of one vertical surface of a square pot, or sloping sidewall surface of a conical or pyramid pot, composed of not less than nine-inch stretch mesh webbing or have at least four circular escape rings of six and one-quarter inches minimum inside diameter. The lowest edge of each escape ring must be within eight inches of the top of the bottom web bar on the pot. One ring must be installed in each quadrant of the pot. Escape rings or stretch mesh webbing must be so located on the vertical or sloping sidewall surface to permit the escapement of undersize crab.

(d) In Registration Area A, a registered king crab vessel may not have, at any time in the aggregate, more than the legal limit of gear on board the vessel, in the water in fishing condition, and in the water in nonfishing condition.

(e) A vessel engaged in taking or transporting king crab may not have on board an otter trawl with a ground line or headline longer than 60 feet.

5 AAC 34.126. King crab pot marking requirements for Registration Area A. In addition to the requirements of 5 AAC 34.051, in Registration Area A, replacement of identification tags lost during the season is permitted if the vessel operator and at least one crewmember

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submit sworn statements or affidavits, in person, at a department office in Registration Area A, describing how the tags were lost and listing the numbers of the lost tags.

5 AAC 34.127. King crab pot storage requirements for Registration Area A. Notwithstanding 5 AAC 34.052, king crab pots with all bait and bait containers removed and all doors secured fully open may be stored in the water only

- (1) for seven days following the season closure for king crab in Registration Area A;
- (2) for five days following the season closure for king crab in any portion of Registration Area A;
- (3) during the 10 days before the scheduled opening of the commercial king and Tanner crab seasons in Registration Area A, only under the following conditions:
 - (A) a pot may not be stored in waters deeper than 10 fathoms at mean low tide; and
 - (B) buoys must be attached to stored pots and must be marked as specified in 5 AAC 34.051, except that a stack of stored king crab pots may be marked with a single buoy.

5 AAC 34.128. Operation of other gear in Registration Area A. (a) A person or vessel that operates commercial, subsistence, personal use, or sport pots or ring nets, other than commercial shrimp pots or Dungeness crab pots, during the 30 days immediately before the scheduled opening date of the commercial king crab season in Registration Area A may not participate in that king crab fishery.

(b) Notwithstanding 5 AAC 31.053(d), 5 AAC 32.053(d), and 5 AAC 34.053(2), a person or vessel may operate commercial shrimp pots or Dungeness crab pots during an open king crab season in Registration Area A if the commercial shrimp or Dungeness crab season is open in Registration Area A at the same time as the commercial king crab season.

5 AAC 34.130. Logbooks. (a) In Registration Area A, during a king crab season, an operator of a vessel registered to fish in the commercial king crab fishery shall complete logbooks provided by the department.

(b) Logbooks described in (a) of this section shall be

- (1) updated daily;
- (2) sealed in envelopes provided by the department to maintain confidentiality; and
- (3) submitted to the primary processor or buyer for attachment to the fish ticket; the processor or buyer shall forward fish tickets with the attached, sealed envelopes containing logbooks to the department in accordance with 5 AAC 39.130.

(c) A catcher-seller described in 5 AAC 39.130 shall attach logbooks described in this section to the department copy of fish tickets.

(d) A person may not make a false entry in the logbook required in (a) of this section.

Editor's note: Logbooks required by this section are available at the Juneau, Ketchikan, Sitka, Haines, Wrangell, Petersburg, and Yakutat regional offices, or by writing to the Department of Fish and Game, commercial fisheries management and development division, shellfish section, P.O. Box 240020, Douglas, Alaska 99824-0020.

5 AAC 34.140. Registration Area A inspections and inspection points. (a) If an inspection is required under (c) of this section, Registration Area A inspection points are located at Ketchikan, Wrangell, Petersburg, Sitka, and Juneau or at other locations specified by the department.

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(b) Unless required under (c) of this section, king crab vessel inspections, as specified in 5 AAC 34.030, are not required in Registration Area A.

(c) In Registration Area A, by announcement, the commissioner may require king crab vessel inspections as specified in 5 AAC 34.030.

5 AAC 34.143. Reporting requirements for king crab in Registration Area A. In addition to the reporting requirements in 5 AAC 39.130 and 5 AAC 34.075, the commissioner may require an owner or operator of a vessel validly registered to fish in the commercial king crab fishery in Registration Area A to report to a local representative of the department the following catch information:

(1) the number of legal king crab on board the vessel and the number of pot lifts conducted during the fishing period in any fishing area, district, or portion of a district; and

(2) any other information that the commissioner determines is necessary for the conservation and management of the resource; the board directs the commissioner to consult with the fishing industry in developing reporting requirements under this paragraph.

5 AAC 34.150. Closed waters in Registration Area A. The following waters of Section 11-A are closed to the taking of red king crab:

(1) the waters north of a line from Marmion Island Light to the easternmost tip of Point Salisbury at 58° 12.50' N. lat., 134° 13.75' W. long., and enclosed by a line from Outer Point on Douglas Island at 58° 18.20' N. lat., 134° 41.30' W. long., across Stephens Passage to the mouth of Bear Creek on Admiralty Island at 58° 16.80' N. lat., 134° 46.50' W. long., along the shoreline of Admiralty Island in a northerly direction to Symonds Point at 58° 20.60' N. lat., 134° 50.20' W. long., across Saginaw Channel to the southeasternmost tip of Shelter Island at 58° 22.30' N. lat., 134° 48.60' W. long., along the shoreline of Shelter Island to the southernmost tip of Halibut Cove at 58° 27.70' N. lat., 134° 53.30' W. long., across Favorite Channel to the southernmost entrance of Amalga Harbor at 58° 29.30' N. lat., 134° 47.30' W. long.; and

(2) the waters of Barlow Cove south of the latitude of Barlow Point at 58° 22.80' N. lat., 134° 53.70' W. long.

(b) The following waters of Section 11-A are closed to the taking of golden king crab: the waters north of a line from Marmion Island Light to the easternmost tip of Point Salisbury at 58° 12.50' N. lat., 134° 13.75' W. long., and east of a line extending from the northernmost tip of Outer Point at 58° 18.20' N. lat., 134° 41.30' W. long., to the southernmost tip of Portland Island at 58° 19.74' N. lat., 134° 44.04' W. long., to the northernmost tip of Portland Island at 58° 21.12' N. lat., 134° 45.48' W. long., to the southernmost tip of Point Louisa at 58° 22.26' N. lat., 134° 43.50' W. long.

5 AAC 34.155. Registration Area A closures. Within 24 hours following the closure of Registration Area A to the taking of a specified species of king crab, all vessels with that species on board must arrive at a processing facility and remain until offloading of crab is complete, unless the vessel is otherwise in compliance with 5 AAC 34.031(e).

Article 6. Registration Area D (Yakutat).

5 AAC 34.160. Description of Registration Area D. Registration Area D has as its western boundary the longitude of Cape Suckling (144° W. long.), and as its southern boundary a line extending seaward from the western tip of Cape Fairweather at 58° 47.89' N. lat., 137° 56.68' W. long. to the intersection with the seaward limit of the three-nautical-mile territorial sea at 58° 45.91' N. lat., 138° 01.53' W. long.

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5 AAC 34.165. Description of Registration Area D districts. Registration Area D districts are described in 5 AAC 30.200.

5 AAC 34.166. Area D registration. (a) Registration Area D is an exclusive registration area.

(b) Notwithstanding 5 AAC 34.005(b) and 5 AAC 34.020(e), a vessel registered for Registration Area D may also be used to take king crab in Registration Area A if the vessel owner, or the owner's agent, has had the registration for Registration Area D invalidated and has registered the vessel in Registration Area A. A vessel registered for Registration Area A may also be used to take king crab in Registration Area D if the vessel owner, or the owner's agent, has had the registration for Registration Area A invalidated and has registered the vessel in Registration Area D.

(c) In Registration Area D, a king crab registration remains valid throughout the registration year unless it is invalidated under (b) of this section or another provision of this chapter.

5 AAC 34.170. Fishing seasons for Registration Area D. (a) Male red king crab may be taken only from 12:00 noon October 24 through December 31.

(b) Male golden king crab may be taken only during periods established by emergency order.

(c) Male blue king crab may be taken only from 12:00 noon October 24 through December 31.

5 AAC 34.175. Guideline harvest level for Registration Area D. In Registration Area D, the guideline harvest range for the taking of red and blue king crab is 0 – 20,000 pounds.

5 AAC 34.180. Size limits for Registration Area D. The size limits for king crab in Registration Area D are the same as those described for king crab in Registration Area A in 5 AAC 34.120.

5 AAC 34.185. Lawful gear for Registration Area D. (a) King crab may be taken only with king crab pots. King crab taken by other means must be returned to the water without further harm.

(b) During an open commercial king crab season in those waters north and east of a line from Point Manby to Ocean Cape,

(1) no more than 100 king crab pots may be operated from a vessel registered to fish for king crab;

(2) when the commercial king crab and Tanner crab seasons are open in Registration Area D at the same time, an aggregate of no more than 100 king and Tanner crab pots may be operated from a vessel registered to fish for king crab.

(c) King crab may not be taken with pots that have tunnel eye openings located on the vertical plane of the pot.

(d) In Registration Area D, a registered king crab vessel may not have, at any time in the aggregate, more than the legal limit of gear on board the vessel, in the water in fishing condition, and in the water of nonfishing condition.

(e) A vessel engaged in taking or transporting king crab may not have on board an otter trawl with a ground line or headline longer than 60 feet.

(f) Beginning November 1, 2006, king crab pots must have either at least the bottom

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one-third of one vertical surface of a square pot, or sloping sidewall surface of a conical or pyramid pot, composed of not less than nine-inch stretch mesh webbing or have at least four circular escape rings of six and one-quarter inches minimum inside diameter. The lowest edge of each escape ring must be within eight inches of the top of the bottom web bar on the pot. One ring must be installed in each quadrant of the pot. Escape rings or stretch mesh webbing must be so located on the vertical or sloping sidewall surface to permit the escapement of undersize crab.

5 AAC 34.186. King crab pot marking requirements for Registration Area D. In addition to the requirements of 5 AAC 34.051, in Registration Area D, replacement of identification tags lost during the season is permitted if the vessel operator and at least one crewmember submit sworn statements or affidavits, in person, at a department office in Registration Area D, describing how the tags were lost and listing the numbers of the lost tags.

5 AAC 34.187. King crab pot storage requirements for Registration Area D. Notwithstanding 5 AAC 34.052, king crab pots with all bait and bait containers removed and all doors secured fully open may be stored in the water only

- (1) for seven days following the season closure for king crab in Registration Area D;
- (2) for 72 hours following the season closure for king crab in any portion of Registration Area D;
- (3) at any time in the waters of Russell Fiord (first bay south of Cape Stoss) in waters no deeper than 10 fathoms.

5 AAC 34.188. Operation of other gear in Registration Area D. (a) A person or vessel that operates commercial, subsistence, personal use, or sport pots or ring nets, other than commercial shrimp pots or Dungeness crab pots, during the 14 days immediately before the scheduled opening date of the commercial king crab season in Registration Area D may not participate in that king crab fishery.

(b) Notwithstanding 5 AAC 31.053(d), 5 AAC 32.053(d), and 5 AAC 34.053(2), a person or vessel may operate commercial shrimp pots or Dungeness crab pots during an open king crab season in Registration Area D if the commercial shrimp or Dungeness crab season is open in Registration D at the same time as the commercial king crab season.

5 AAC 34.190. Registration Area D inspections and inspection points. (a) If an inspection is required under (c) of this section, Registration Area D inspection points are located at Yakutat or at other locations specified by the department.

(b) Unless required under (c) of this section, king crab vessel inspections, as specified in 5 AAC 34.030, are not required in Registration Area D.

(c) In Registration Area D, by announcement, the commissioner may require king crab vessel inspections as specified in 5 AAC 34.030.

Article 7. Registration Area E (Prince William Sound).

5 AAC 34.200. Description of Registration Area E. Registration Area E has as its western boundary a line running along the longitude of Cape Fairfield at 148° 50.25' W. long., south to the latitude of Cape Douglas at 58° 51.10' N. lat., then west to 149° W. long., then south along 149° W. long., and as its eastern boundary the longitude of Cape Suckling at 144° W. long.

5 AAC 34.206. Area E registration. Registration Area E is a superexclusive registration area.

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5 AAC 34.210. Fishing seasons for Registration Area E. The commercial taking of king crab in Registration Area E is closed until the king crab stocks have recovered enough for a harvest strategy to be developed by the department and adopted by the Board of Fisheries.

5 AAC 34.217. Guideline harvest range for Registration Area E. The guideline harvest range for golden king crab is 40,000 – 60,000 pounds.

5 AAC 34.220. Size limits for Registration Area E. (a) Only male red and golden king crab seven inches or greater in width of shell may be taken or possessed.

(b) Only male blue king crab 5.9 inches or greater in width of shell may be taken or possessed.

5 AAC 34.225. Lawful gear for Registration Area E. (a) King crab may be taken only with king crab pots. King crab taken by other means must be returned to the water without further harm.

(b) Trawls with a ground line not exceeding 60 feet may be used for taking bait.

5 AAC 34.227. King crab pot storage requirements for Registration Area E. Notwithstanding 5 AAC 34.052, cone or pyramid king crab pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial king crab season in Registration Area E, until 30 days following the closure of that season.

5 AAC 34.240. Registration Area E inspection points. Registration Area E initial inspection points are located at Cordova and Valdez or at other locations specified by the department. Reinspection points are located at Cordova, Valdez, Seward or at other locations specified by the department.

Article 8. Registration Area H (Cook Inlet).

5 AAC 34.300. Description of Registration Area H. Registration Area H has as its eastern boundary the longitude of Cape Fairfield (148° 50.25' W. long.), and as its southern boundary the latitude of Cape Douglas (58° 51.10' N. lat.).

5 AAC 34.305. Description of Registration Area H districts. Registration Area H districts are described in 5 AAC 21.200.

5 AAC 34.306. Area H registration. (a) Registration Area H is a superexclusive registration area.

(b) A king crab vessel must be registered for Registration Area H before the scheduled opening date of the commercial king crab season.

5 AAC 34.310. Fishing seasons for Registration Area H. The commercial taking of king crab in Registration Area H is closed until the king crab stocks have recovered enough for a harvest strategy to be developed by the department and adopted by the Board of Fisheries.

5 AAC 34.320. Size limits for Registration Area H. Only male king crab seven inches or greater in width of shell may be taken or possessed except that

(1) repealed 8/24/2002;

(2) male king crab less than seven inches in width of shell may be transported through or into the registration area for the purpose of delivery to a processor; king crab may not be taken in the registration area until after delivery of king crab taken in areas with minimum legal sizes of less than seven inches in shell width.

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5 AAC 34.325. Lawful gear for Registration Area H. (a) Notwithstanding 5 AAC 34.050, king crab may be taken only with king crab pots and ring nets. King crab taken by other means must be returned to the water without further harm.

(b) During the commercial king crab season in Registration Area H, an aggregate of no more than 75 king and Tanner crab pots may be operated from a vessel registered to fish for king crab, except that if the projected guideline harvest level for king crab is less than 1,500,000 pounds, an aggregate of no more than 40 pots may be operated from a vessel registered to fish for king crab.

(c) During the commercial Tanner crab season in the Southern District, an aggregate of no more than 75 king and Tanner crab pots may be operated from a vessel registered to fish for king and Tanner crab, except that if the projected guideline harvest level for Tanner crab is less than 800,000 pounds, an aggregate of no more than 40 pots may be operated from a vessel registered to fish for king and Tanner crab.

(d) A vessel engaged in taking or transporting king crab may not have on board an otter trawl with a ground line or headline longer than 60 feet.

5 AAC 34.326. King crab pot marking requirements for Registration Area H. In addition to the requirements of 5 AAC 34.051, in Registration Area H, replacement of identification tags lost during the season is permitted if the vessel operator submits a sworn statement or affidavit, in person, at a department office in Registration Area H, describing how the tags were lost and listing the numbers of the lost tags.

5 AAC 34.327. King crab pot storage requirements for Registration Area H. (a) Notwithstanding 5 AAC 34.052, rectangular king crab pots with all bait and bait containers removed and all doors secured fully open, and cone or pyramid king crab pots with all bait and bait containers removed and with all doors not secured closed, may be stored in the Kamishak Bay District and in those waters of the Southern District west of a line from Coal Point to Sixty-foot Rock to Anisom Point only in waters no deeper than 15 fathoms. In all remaining waters of the Southern District, rectangular king crab pots with all bait and bait containers removed and all doors secured fully open and cone or pyramid king crab pots with all bait and bait containers removed and all doors not secured closed may be stored only in waters of not more than 10 fathoms deep.

(b) Cone or pyramid pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial king crab season in Registration Area H, until 30 days following the closure of that season.

5 AAC 34.340. Registration Area H inspection points. Registration Area H initial inspection points are located at Homer, Seldovia, and Seward. Reinspection points are located at Homer, Seldovia, Seward, and Kodiak or at other locations specified by the department.

Article 9. Registration Area K (Kodiak).

5 AAC 34.400. Description of Registration Area K. Registration Area K consists of all Pacific Ocean waters south of the latitude of Cape Douglas (58° 51.10' N. lat.), west of 149° W. long., and east of a line extending south from Cape Kumlik along 157° 27.00' W. long.

5 AAC 34.405. Description of Registration Area K districts. (a) Northeast District: all waters of Registration Area K northeast of a line extending 168° from Cape Barnabas at 57° 09.07' N. lat., 152° 52.20' W. long., east of 153° 16.00' W. long. in Sitkalidak Strait,

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east of a line between Inner Point and Afognak Point along 152° 47.75' W. long., east of 152° 30.00' W. long. in Shuyak Strait, and east of a line extending north from Shuyak Island along 152° 20.00' W. long.

(b) Southeast District: all waters of Registration Area K west of 153° 16.00' W. long. in Sitkalidak Strait, west of a line extending 168° from Cape Barnabas at 57° 09.07' N. lat., 152° 52.20' W. long., east of 156° 20.22' W. long., and south of a line extending 222° from Cape Trinity at 56° 44.80' N. lat., 154° 08.90' W. long.

(c) Southwest District: all waters of Registration Area K west of a line extending 222° from Cape Trinity at 56° 44.80' N. lat., 154° 08.90' W. long., east of 156° 20.22' W. long., and south of a line from Cape Ikolik at 57° 17.40' N. lat., 154° 47.40' W. long. to the Alaska Peninsula, near Kilokak Rocks, at 57° 10.34' N. lat., 156° 20.22' W. long., including all of Alitak Bay and Olga Bay.

(d) Semidi Island District: all waters of Registration Area K west of a line extending south from the Alaska Peninsula, near Kilokak Rocks, along 156° 20.22' W. long., and east of a line extending south from Cape Kumlik along 157° 27.00' W. long.

(e) Shelikof District: all waters of Registration Area K north of a line from Cape Ikolik at 57° 17.40' N. lat., 154° 47.40' W. long. to the Alaska Peninsula, near Kilokak Rocks, at 57° 10.34' N. lat., 156° 20.22' W. long., west of a line between Inner Point and Afognak Point along 152° 47.75' W. long., west of 152° 30.00' W. long. in Shuyak Strait, and west of a line extending north from Shuyak Island along 152° 20.00' W. long.

5 AAC 34.406. Area K registration. (a) Registration Area K is an exclusive registration area for red and blue king crab and a nonexclusive registration area for golden king crab.

(b) Notwithstanding 5 AAC 34.005(b), 5 AAC 34.020(e), 5 AAC 34.506, and (a) of this section, only a vessel registered for the West Chignik District of Registration Area M may be used to take king crab in the Semidi Island District of Registration Area K.

5 AAC 34.410. Fishing seasons for Registration Area K. (a) The commissioner may open and close, by emergency order, a season for red and blue king crab beginning 12:00 noon September 25.

(b) Repealed 8/14/2005.

(c) Male golden king crab may be taken from January 1 through December 31 only under conditions of a permit issued by the commissioner.

5 AAC 34.420. Size limits for Registration Area K. Only male red and blue king crab seven inches or greater, and male golden king crab six and one-half inches or greater, in width of shell may be taken or possessed, except that male king crab less than seven inches in width of shell may be transported through or into the registration area for the purpose of delivery to a processor. King crab may not be taken in the registration area until after delivery of king crab taken in areas with minimum sizes of less than seven inches.

5 AAC 34.425. Lawful gear for Registration Area K. (a) King crab may be taken only with king crab pots. King crab taken by other means must be returned to the water without further harm.

(b) Each king crab pot must have at least one-third of one vertical surface of the pot composed of not less than nine-inch stretched mesh webbing.

(c) The following king crab pot limits are in effect in Registration Area K:

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(1) if the projected guideline harvest level is more than 6,000,000 pounds, no more than 75 pots may be operated;

(2) if the projected guideline harvest level is at least 3,000,000 but not more than 6,000,000 pounds, no more than 50 pots may be operated;

(3) if the projected guideline harvest level is less than 3,000,000 pounds, no more than 25 pots may be operated.

(d) A vessel engaged in taking or transporting king crab may not have on board an otter trawl with a ground line or headline longer than 60 feet.

5 AAC 34.427. King crab pot storage requirements for Registration Area K. Notwithstanding 5 AAC 34.052, cone or pyramid king crab pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial king crab season in Registration Area K, until 30 days following the closure of that season.

5 AAC 34.440. Registration Area K inspection points. Registration Area K inspection points are located at Kodiak or at other locations specified by the department.

5 AAC 34.460. Kodiak King Crab Management Plan. (a) The Kodiak king crab fishery must be managed according to the guidelines set forth in this section.

(b) To the extent possible individual king crab stocks must be managed as a single unit throughout their range. The department should avoid as much as possible small area closures that will leave a portion of a stock open to fishing.

(c) Repealed 6/30/83.

(d) The department shall manage the harvest during the season described in 5 AAC 34.410(a) (early season) so that approximately 10 percent of the estimated harvest for each stock will be retained to provide for a harvest during the season described in 5 AAC 34.410(b) (late season).

(e) The late season will open between November 15 and December 15, if a significant portion of the early season harvest goals have been attained in the Northeast, Southeast, and Southwest districts. The late season must open no later than December 15.

Article 10. Registration Area M (Alaska Peninsula).

5 AAC 34.500. Description of Registration Area M. Registration Area M consists of waters west of a line extending south from Cape Kumlik along 157° 27.00' W. long. and east of a line extending south from Scotch Cap Light along 164° 44.72' W. long. Registration Area M also includes all waters of Bechevin Bay and Isanotski Strait south of a line from the easternmost tip of Chunak Point to the westernmost tip of Cape Krenitzen.

5 AAC 34.505. Description of Registration Area M districts. (a) Unimak Bight District: all waters of Registration Area M west of a line from Cape Pankof at 54° 39.60' N. lat., 163° 03.70' W. long. to Point Petrof at 54° 28.75' N. lat., 162° 49.42' W. long. and extending south from Point Petrof along 162° 49.42' W. long.

(b) Central District: all waters of Registration Area M east of a line from Cape Pankof at 54° 39.60' N. lat., 163° 03.70' W. long. to Point Petrof at 54° 28.75' N. lat., 162° 49.42' W. long. and extending south from Point Petrof along 162° 49.42' W. long., and west of a line from Kupreanof Point at 55° 33.98' N. lat., 159° 35.88' W. long. to Castle Rock at 55° 16.80' N. lat., 159° 29.11' W. long. and extending 135° southeast from Castle Rock.

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(c) West Chignik District: all waters of Registration Area M east of a line from Kupreanof Point at 55° 33.98' N. lat., 159° 35.88' W. long. to Castle Rock at 55° 16.80' N. lat., 159° 29.11' W. long. and extending 135° southeast from Castle Rock.

5 AAC 34.506. Area M registration. Registration Area M is a superexclusive registration area. A vessel registered to take king crab in the West Chignik District may not be used to take king crab in any other king crab registration district in Registration Area M during the same registration year.

5 AAC 34.510. Fishing seasons for Registration Area M. (a) The commissioner may open and close, by emergency order, a season for red and blue king crab beginning 12:00 noon September 25.

(b) Male golden king crab may be taken from January 1 through December 31 only under conditions of a permit issued by the commissioner.

(c) Repealed 8/14/2005.

5 AAC 34.520. Size limits for Registration Area M. (a) Only male king crab six and one-half inches or greater in width of shell may be taken or possessed.

(b) Repealed 8/14/2005.

5 AAC 34.525. Lawful gear for Registration Area M. (a) King crab may be taken only with king crab pots. King crab taken by other means must be returned to the water without further harm.

(b) Each king crab pot must have at least one-third of one vertical surface of the pot composed of not less than nine-inch stretched mesh webbing.

(c) During the commercial king crab season in Registration Area M, an aggregate of no more than 75 pots may be operated from a vessel registered to fish for king crab, except that if the projected guideline harvest level is less than 600,000 pounds, no more than 40 pots may be operated.

(d) A vessel engaged in taking or transporting king crab may not have on board an otter trawl with a ground line or headline longer than 60 feet.

5 AAC 34.527. King crab pot storage requirements for Registration Area M. Notwithstanding 5 AAC 34.052, king crab pots may not be stored in the water starting seven days following the closure of the South Peninsula and Chignik District commercial Tanner crab seasons until the scheduled opening date of the commercial king crab season in Registration Area M.

5 AAC 34.540. Registration Area M inspection points. Registration Area M inspection points are located at Kodiak and Dutch Harbor or at other locations specified by the department.

5 AAC 34.590. Vessel length restrictions for Registration Area M. (a) In the West Chignik District, a vessel engaged in the commercial king crab fishery may not be longer than 58 feet overall length.

(b) For the purposes of this section, "overall length" means the straight line length between the extremities of the vessel, excluding anchor rollers.

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

5 AAC 34.600. Description of Registration Area O. Registration Area O has as its eastern boundary the longitude of Scotch Cap Light (164° 44.72' W. long.), its western boundary the

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Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as that Maritime Boundary Agreement Line is depicted on *NOAA Chart #513* (7th Edition, June 2004) and *NOAA Chart #514* (7th Edition, January 2004), adopted by reference, and its northern boundary a line from the latitude of Cape Sarichef (54° 36' N. lat.) to 171° W. long., north to 55° 30' N. lat., and west to the Maritime Boundary Agreement Line.

Editor's note: Copies of the the National Oceanic and Atmospheric Administration (NOAA) charts adopted by reference in 5 AAC 34.600 can be viewed, downloaded, and purchased at NOAA's website at <http://www.nauticalcharts.noaa.gov/staff/chartpubs.html>. In addition, the charts are available for inspection at the Lieutenant Governor's Office, Juneau, Alaska.

5 AAC 34.604. Description of red king crab districts. The districts for the commercial red king crab fishery in Registration Area O are as follows:

- (1) Dutch Harbor District: all waters of Registration O between the longitude of Scotch Cap Light (164° 44.72' W. long.) and 171° W. long;
- (2) Adak District: all waters of Registration Area O between 171° W. long. and 179° W. long.;
- (3) Petrel District: all waters of Registration Area O west of 179° W. long.

5 AAC 34.606. Area O registration. (a) Registration Area O is a nonexclusive registration area for all king crab.

(b) For the commercial red king crab fishery, the vessel registration deadline for the registration year is 21 days before that vessel begins fishing operations. Before a vessel may be registered under this subsection, the vessel operator must obtain a CFEC interim-use permit for Aleutian Islands king crab that references the vessel's ADF&G license number and file a registration form with the department, except that a vessel operator is not required to obtain a CFEC interim-use permit before filling a registration form for the red king crab fishery in the Petrel District. The registration form must identify the vessel and must be received in person, or by mail or facsimile, at the department office in Dutch Harbor or Kodiak by the deadline specified in this subsection.

5 AAC 34.610. Fishing seasons for Registration Area O. (a) The commissioner may open and close, by emergency order, a season for male red king crab in the

- (1) Adak District under 5 AAC 34.616, beginning 12:00 noon August 1 and ending no later than 11:59 p.m. February 15;
- (2) Petrel District and Dutch Harbor District, beginning 12:00 noon October 15 and ending no later than 11:59 p.m. February 15.

(b) Male golden king crab may be taken only as follows:

- (1) through May 15, 2015, from 12:00 noon August 15 through 11:59 p.m. May 15;
- (2) beginning August 1, 2015, from 12:00 noon August 1 through 11:59 p.m. April 30.

(c) Repealed 8/24/2002.

(d) During a fishing season opened under (a) of this section in the waters of Alaska in the Adak District, only a vessel that is 60 feet or less in overall length may be used to fish for red king crab.

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5 AAC 34.612. Harvest levels for golden king crab in Registration Area O. Until the Aleutian Islands golden king crab stock assessment model and a state regulatory harvest strategy are established, the harvest levels for Registration Area O golden king crab fishery are as follows:

- (1) east of 174° W. long.: 3.31 million pounds; and
- (2) west of 174° W. long.: 2.98 million pounds.

(b) The department may 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.

5 AAC 34.616. Adak District red king crab harvest strategy. (a) In the Adak District, based on the best scientific information available, if the department determines that there is a harvestable surplus of

(1) red king crab available in the waters of Alaska in the Adak District, the commissioner may open, by emergency order, a commercial red king crab fishery only in the waters of Alaska in the Adak District under 5 AAC 34.610(a)(1);

(2) at least 250,000 pounds of red king crab in the Adak District, the commissioner may open, by emergency order, a commercial red king crab fishery in the entire Adak District under 5 AAC 34.610(a)(1).

(b) In the Adak District, during a season opened under 5 AAC 34.610(a)(1), the operator of a validly registered king crab fishing vessel shall

- (1) report each day to the department
 - (A) the number of pot lifts;
 - (B) the number of crab retained for the 24-hour fishing period preceding the report; and
 - (C) any other information the commissioner determines is necessary for the management and conservation of the fishery, as specified in the vessel registration certificate issued under 5 AAC 34.020; and
- (2) complete and submit a logbook as prescribed and provided by the department.

5 AAC 34.620. Size limits for Registration Area O. (a) Male red king crab six and one-half inches or greater in width of shell may be taken or possessed.

(b) Only male golden king crab six inches or greater in width of shell may be taken or possessed.

(c) Repealed 8/24/2002.

5 AAC 34.625. Lawful gear for Registration Area O. (a) King crab may be taken only with king crab pots. King crab taken by other means must be returned to the water without further harm.

(b) Pots used to take golden king crab

(1) must have at least four circular escape rings of five and one-half inches minimum inside diameter installed on the vertical plane or have at least one-third of one vertical surface of the pot composed of not less than nine-inch stretched mesh webbing to permit the escapement of undersized golden king crab;

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(2) may be operated only from a shellfish longline; a buoy is not required for each pot, but each end of the longline must be marked by a cluster of four buoys; one buoy in the cluster must be marked in accordance with 5 AAC 34.051 and have the initials "SL" to identify it as a shellfish longline; for purposes of this subsection "a shellfish longline" is a stationary, buoyed, and anchored line with at least 10 shellfish pots attached; and

(3) notwithstanding 5 AAC 39.145, may have an opening that is laced, sewn, or secured together by a single length of untreated, 100 percent cotton twine no larger than 60 thread; the cotton twine may be knotted at each end only; the opening must be within six inches of, and parallel with, the bottom of the pot; the cotton twine may not be tied or looped around web bars.

(c) Otter trawls with a ground line or headline exceeding 60 feet in length may not be on board a vessel engaged in the taking or transporting of king crab.

(d) In the Petrel District commercial red king crab fishery in Registration Area O, established by emergency order under 5 AAC 34.610(a), no more than 250 pots may be operated from a validly registered vessel.

(e) Pots used to take red king crab

(1) must have at least one-third of one vertical surface of the pot composed of not less than nine-inch stretched mesh webbing to permit the escapement of undersized red king crab; and

(2) may not be longlined; each pot must be individually buoyed and marked.

(f) A vessel may be registered to fish in the commercial red king crab and golden king crab fisheries at the same time. However, only single line pots may be operated in areas open to red king crab fishing and only longline pots may be operated in areas open to golden king crab fishing.

(g) In the Adak District commercial red king crab fishery established under 5 AAC 34.610(a)(1),

(1) the pot limits are as follows:

(A) in the waters of Alaska, no more than 10 pots may be operated from a validly registered vessel;

(B) in the waters of the exclusive economic zone, no more than 15 pots may be operated from a validly registered vessel;

(2) king crab pot gear may be deployed or retrieved only from 8:00 a.m. until 5:59 p.m. each day.

5 AAC 34.627. King crab gear storage requirements for Registration Area O. (a) Notwithstanding 5 AAC 34.052, and except as described in (b) of this section, during the closed season for king crab in Registration Area O, king crab pots must be removed from the water except, with all doors fully open and with all bait containers removed,

(1) single line king crab pots may be stored in waters 25 fathoms or less in depth; and

(2) longline king crab pots may be stored in waters 75 fathoms or less in depth.

(b) King crab pots may not be stored in the following waters:

(1) from June 1 through August 15, the waters east of 169° W. long.;

(2) Hot Springs Bay, inside of a line from the tip of Ridge Point to 54° 12.67' N.

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lat., 165° 52' W. long.; and

(3) Kalekta Bay, inside of a line from the tip of Erskine Point to the tip of Cape Kalekta.

5 AAC 34.628. Operation of other gear in Registration Area O. (a) Notwithstanding 5 AAC 34.053, and except as provided in (b) of this section, a person or vessel that operates longline, trawl, or pot gear in waters less than 125 fathoms in depth in a commercial, subsistence, personal use, or sport fishery in that portion of Registration Area O open to commercial red king crab fishing 30 days immediately before the scheduled opening date of the commercial red king crab fishery may not participate in the commercial red king crab fishery.

(b) The provisions of 5 AAC 34.053(1), 5 AAC 35.053(1), and (a) of this section do not apply to a person or vessel participating in the Adak District commercial red king crab fishery, except that a vessel may not participate in the Adak commercial red king crab fishery if pot, trawl, or longline is operated from that vessel during the seven days before the scheduled opening of the fishery.

5 AAC 34.640. Registration Area O inspections and inspection points. (a) Inspection points in Registration Area O are located at Dutch Harbor, Akutan, King Cove, and at additional locations if specified by the department.

(b) Notwithstanding 5 AAC 34.030(a), for Registration Area O a registered king crab vessel may have its holds, live tanks, and freezers inspected by a local representative of the department at Dutch Harbor, Akutan, or King Cove within 72 hours before taking or processing king crab.

5 AAC 34.641. Landing requirements for Registration Area O. (a) Repealed 11/6/96.

(b) Notwithstanding 5 AAC 34.031(e), in waters subject to the jurisdiction of the state, following the closure of Registration Area O to the taking of a specified species of king crab, a king crab vessel validly registered for Registration Area O may not have that species of king crab on board after 72 hours following the closure if delivery is made to Dutch Harbor, Akutan, or King Cove, except that a vessel delivering to King Cove may request additional time to deliver king crab using the procedure described in (c)(1) of this section.

(c) If a vessel is delivering king crab to a location east of King Cove, or if the vessel owner, or the owner's agent, wishes to request additional time to deliver king crab to King Cove under (b) of this section, the

(1) vessel owner, or the owner's agent, shall contact, by radio or telephone, a representative of the department in Dutch Harbor within 72 hours following the closure described in (b) of this section;

(2) representative of the department in Dutch Harbor shall grant a reasonable amount of additional time for the vessel to reach the port of delivery; the amount of additional time shall be determined under the assumption that the vessel departed the fishing grounds immediately after the closure and proceeded directly to the processing location, except that additional time may be allowed for a vessel to stop en route and offload the vessel's crab pots at a storage facility if the vessel operator first contacts a representative of the department in Dutch Harbor and provides information on the location of the storage facility, the expected time of gear placement at that facility, and the expected time the vessel will depart the storage facility en route to the port of delivery.

(d) To be in compliance with 5 AAC 34.031(b), the vessel owner, or the owner's agent,

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or a tender vessel registered for Registration Area O that intends to land king crab in another registration area shall make the radio or telephone contact required by 5 AAC 34.031(b) only with a representative of the department at Dutch Harbor.

5 AAC 34.690. Vessel length restrictions. (a) King crab may not be taken from waters of Unalaska Bay enclosed by a line from Cape Cheerful (54° N. lat., 166° 40.33' W. long.) to Priest Rock (54° N. lat., 166° 22.50' W. long.) by vessels over 50 feet, U.S. Coast Guard registered length, or 58 feet overall length.

(b) In the remaining waters of Registration Area O east of 171° W. long., not specified in (a) of this section, king crab may not be taken by vessels over 58 feet overall length when the guideline harvest level is 1,000,000 pounds or less.

Article 13. Registration Area T (Bristol Bay).

5 AAC 34.800. Description of Registration Area T. Registration Area T has as its northern boundary the latitude of Cape Newenham (58° 39' N. lat.), as its southern boundary the latitude of Cape Sarichef (54° 36' N. lat.), and as its western boundary 168° W. long., and includes all waters of Bristol Bay.

5 AAC 34.806. Area T registration. (a) Registration Area T is an exclusive registration area.

(b) For the red king crab fishery, the vessel registration deadline for the registration year is 5:00 p.m. September 24. Before a vessel may be registered under this subsection, the vessel operator must file a registration form with the department. The registration form must identify the vessel and vessel operator, and must be received in person, or by mail or facsimile, at the department office in Dutch Harbor or Kodiak by the deadline specified in this subsection.

Editor's note: The registration form specified in 5 AAC 34.806(b) may be sent by mail or facsimile to the department office in Dutch Harbor at Department of Fish and Game, P.O. Box 920587, Dutch Harbor, Alaska 99602-0587; Fax: (907) 581-1572 or the department office in Kodiak at Department of Fish and Game, Division of Commercial Fisheries, 351 Research Court, Kodiak, Alaska 99615-7400; Fax: (907) 486-1824.

5 AAC 34.810. Fishing seasons for Registration Area T. (a) Male red king crab may be taken only from 12:00 noon October 15 through 11:59 p.m. January 15.

(b) Male golden king crab may be taken from January 1 through December 31 only under conditions of a permit issued by the commissioner.

5 AAC 34.816. Bristol Bay red king crab harvest strategy. (a) In accordance with 5 AAC 34.080, the Bristol Bay red king crab fishery shall be managed based on the following harvest strategy:

(1) the threshold level of abundance is 8,400,000 mature female red king crab and 14,500,000 pounds of effective spawning biomass; the Bristol Bay red king crab season may open only if analysis of preseason survey data indicates that the population of red king crab exceeds both of these indices of stock reproductive potential; the Bristol Bay red king crab season will not open if preseason survey data indicates that the population is at or below either of these two indices;

(2) if the Bristol Bay red king crab season is open under (1) of this subsection and the effective spawning biomass is at least 14,500,000 pounds, but less than 34,750,000 pounds, the number of legal male red king crab available for harvest will be no more than

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10 percent of the mature male red king crab abundance or no more than 50 percent of the legal-sized male red king crab abundance, whichever is less;

(3) if the Bristol Bay red king crab season is open under (1) of this subsection and the effective spawning biomass is at least 34,750,000 pounds, but less than 55,000,000 pounds, the number of legal male red king crab available for harvest will be no more than 12.5 percent of the mature male red king crab abundance or no more than 50 percent of the legal-sized male red king crab abundance, whichever is less;

(4) if the Bristol Bay red king crab season is open under (1) of this subsection and the effective spawning biomass is 55,000,000 pounds or more, the number of legal male red king crab available for harvest will be no more than 15 percent of the mature male red king crab abundance or no more than 50 percent of the legal-sized male red king crab abundance, whichever is less;

(5) when applying this harvest strategy, the department shall consider the reliability of the estimates of abundance of red king crab, other factors necessary to be consistent with sustained yield principles, and the best scientific information available.

(b) For the purpose of this section,

(1) "effective spawning biomass" means the estimated biomass of mature female red king crab that the population of mature male red king crab could successfully mate in a given year;

(2) "mature female red king crab" means female red king crab that are 3.5 inches (90 mm) or more in carapace length;

(3) "mature male red king crab" means male red king crab that are 4.7 inches (120 mm) or more in carapace length.

5 AAC 34.820. Size limits for Registration Area T. (a) Male red king crab six and one-half inches or greater in width of shell may be taken or possessed.

(b) Repealed 8/24/2002.

(c) Only male golden king crab five and one-half inches or greater in width of shell may be taken or possessed.

5 AAC 34.825. Lawful gear for Registration Area T. (a) King crab may be taken only with king crab pots. King crab taken by other means must be returned to the water without further harm.

(b) Each king crab pot must have at least one-third of one vertical surface of the pot composed of not less than nine-inch stretched mesh webbing.

(c) Each pot used to take golden king crab must have at least four circular escape rings of not less than five and one-half inches inside diameter installed on the vertical plane or have at least one-third of one vertical surface of the pot composed of not less than nine-inch stretched mesh webbing to permit the escapement of undersize golden king crab.

(d) Repealed 8/8/99.

(e) Repealed 8/8/99.

(f) At the time of tank inspection required under 5 AAC 34.030, the gear must meet all specifications required by this chapter and 5 AAC 39, including identification, escape mechanisms, and mesh size requirements.

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(g) A vessel engaged in taking or transporting king crab may not have on board an otter trawl with a ground line or headline longer than 60 feet.

(h) Repealed 8/15/2008.

(i) Repealed 8/14/2005.

(j) Repealed 8/14/2005.

(k) In Registration Area T, the operator of a vessel that is registered for the red king crab fishery may have on board the vessel no more than 10 groundfish pots, as defined in 5 AAC 28.050(e). Notwithstanding 5 AAC 34.050(1), red king crab taken from these pots may be legally retained.

5 AAC 34.826. King crab pot marking requirements for Registration Area T. Repealed 9/12/2008.

5 AAC 34.827. King crab pot storage requirements for Registration Area T. (a) In addition to the provisions of 5 AAC 34.052, in Registration Area T, king crab pots may be stored in waters north of 57° N. lat., south of 58° N. lat., east of 166° W. long., and west of 164° W. long. during the closed commercial king crab season.

(b) Repealed 8/14/2005.

(c) Repealed 8/14/2005.

5 AAC 34.828. Operation of other gear in Registration Area T. Repealed 8/14/2005.

5 AAC 34.840. Registration Area T inspection points and requirements. (a) Registration Area T inspection points are located at Dutch Harbor or at other locations specified by the department.

(b) Notwithstanding 5 AAC 34.030, in Registration Area T within 30 hours before a season opening or at any time during the open season before taking or processing king crab, a king crab vessel registered for Registration Area T must have all holds or live tanks inspected by a local representative of the department at inspection points specified in this section. Unless otherwise specified in this chapter, king crab may not be on board the vessel at the time of inspection. Successful completion of the inspection validates the vessel's registration for Registration Area T. During the period 30 hours before the season opening in Registration Area T until the season closure, the inspection requirements of this section do not apply to a registered king crab vessel that does not have a saltwater circulation system in its holds or live tanks. If an inspection is not required, completion of the registration form validates the registration.

5 AAC 34.841. Landing requirements for Registration Area T. (a) Notwithstanding 5 AAC 34.031(e)(3), following the closure of Registration Area T to the taking of a specified species of king crab, a vessel validly registered for that area may not have that species of king crab on board the vessel in waters subject to the jurisdiction of the state, if delivery is made to

(1) Dutch Harbor, Akutan, or King Cove, after 30 hours following the closure;

(2) Adak, the Pribilof Islands, or a location east of King Cove,

(A) the vessel owner, or the owner's agent, shall contact, by radio or telephone, a representative of the department in Dutch Harbor within 30 hours following the closure; and

(B) the representative of the department in Dutch Harbor shall grant a reasonable

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amount of additional time for the vessel to reach the port of delivery; the amount of additional time shall be determined under the assumption that the vessel departed the fishing grounds immediately following the closure and proceeded directly to the processing location.

(b) For purposes of this section, a vessel validly registered for Registration Area T landing king crab at Dutch Harbor, Akutan, or King Cove will be deemed to have landed its catch in the area for which it is validly registered at the time of landing.

(c) To comply with 5 AAC 34.031(b), the vessel owner, the owner's agent, or the operator of a tender vessel registered for Registration Area T that intends to land king crab in another registration area shall make the radio or telephone contact required under (a) of this section with a representative of the department at Dutch Harbor.

(d) Repealed 8/8/99.

(e) After the king crab fishing season is closed, a vessel with king crab on board may not be used for any purpose except to travel to the port of delivery to offload king crab, and the vessel may not pull any gear, baited or stored, or place any gear into storage, except that a vessel may stop en route and offload pots at a storage facility if the vessel operator first contacts a representative of the department in Dutch Harbor and provides information on the location of the storage facility, the expected time of gear placement at that facility, and the expected time the vessel will depart the storage facility en route to the port of delivery. After king crab have been delivered to the port of delivery, the vessel operator shall remove any pot gear remaining on the grounds, return any king crab in pot gear to the water immediately without further harm, and place the pot gear in an authorized storage area or on board the vessel within 10 days after the closure of the season.

(f) After the season is closed and before delivery of king crab, a vessel may not have a line in the block on board that vessel.

5 AAC 34.842. Catch information reporting in Registration Area T. If requested by the department, the operator of a vessel registered to take king crab in Registration Area T may report up to every 12 hours to a local representative of the department information that the department has determined is useful for the purpose of managing the harvest of king crab.

Article 14. Registration Area Q (Bering Sea).

5 AAC 34.900. Description of Registration Area Q. Registration Area Q has as its southern boundary a line from 54° 36' N. lat., 168° W. long., to 54° 36' N. lat., 171° W. long., to 55° 30' N. lat., 171° W. long., to 55° 30' N. lat., 173° 30' E. long., as its northern boundary the latitude of Point Hope (68° 21' N. lat.), as its eastern boundary a line from 54° 36' N. lat., 168° W. long., to 58° 39' N. lat., 168° W. long., to Cape Newenham (58° 39' N. lat.), and as its western boundary the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as that Maritime Boundary Agreement Line is depicted on *NOAA Chart #513* (7th Edition, June 2004) and *NOAA Chart #514* (7th Edition, January 2004), adopted by reference.

Editor's note: Copies of the National Oceanic and Atmospheric Administration (NOAA) charts adopted by reference in 5 AAC 34.900 can be viewed, downloaded, and purchased at NOAA's website at <http://www.nauticalcharts.noaa.gov/staff/chartspubs.html>. In addition, the charts are available for inspection at the Lieutenant Governor's Office, Juneau, Alaska.

5 AAC 34.905. Description of Registration Area Q districts. (a) Repealed 6/14/80.

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(b) Pribilof District: waters of Registration Area Q south of the latitude of Cape Newenham (58° 39' N. lat.).

(c) Northern District: waters of Registration Area Q north of the latitude of Cape Newenham (58° 39' N. lat.).

(1) Norton Sound Section: waters north of the latitude of Cape Romanzof (61° 49' N. lat.) and south of 66° N. lat.;

(2) Saint Matthew Island Section: waters north of the latitude of Cape Newenham (58° 39' N. lat.) and south of the latitude of Cape Romanzof (61° 49' N. lat.);

(3) Kotzebue Sound Section: all remaining waters of the district.

5 AAC 34.906. Area Q registration. (a) Registration Area Q is a nonexclusive registration area, except that the Norton Sound Section of the Northern District is a superexclusive registration area.

(b) In the Pribilof District and the St. Matthew Island Section of the Northern District,

(1) for the red and blue king crab fishery, the vessel registration deadline for the registration year is 5:00 p.m. August 24;

(2) for the golden king crab fishery, the vessel registration deadline for the registration year is 21 days before the vessel begins fishing operations.

(c) Before a vessel may be registered under this section, the vessel operator must obtain a CFEC interim-use permit for Bering Sea king crab that references the vessel's ADF&G license number and file a registration form with the department, except that a vessel operator is not required to obtain a CFEC interim-use permit before filing a registration form for the Pribilof District red and blue king crab fisheries or the Saint Matthew Island Section blue king crab fishery. The registration form must identify the vessel and vessel operator and must be received in person, by mail, or facsimile, at the department office in Dutch Harbor or Kodiak by the applicable deadline specified in (b) of this section.

Editor's note: The registration form specified in 5 AAC 34.906(c) may be sent by mail or facsimile to the department office in Dutch Harbor at Department of Fish and Game, P. O. Box 920587, Dutch Harbor, Alaska 99602-0587; Fax: (907) 581-1572; or the department office in Kodiak at Department of Fish and Game, Division of Commercial Fisheries, 351 Research Court, Kodiak, Alaska 99615-7400; Fax: (907) 486-1824.

5 AAC 34.910. Fishing seasons for Registration Area Q. (a) After an opening time and date for taking king crab set forth in (b) – (d) of this section, no person may possess or transport aboard any registered king crab vessel or any tender, any species of king crab until the vessel has complied with the inspection provisions of 5 AAC 34.030(b).

(b) In the Pribilof District,

(1) male red and blue king crab may be taken only from 12:00 noon October 15 through 11:59 p.m. January 15;

(2) repealed 8/24/2002;

(3) male golden king crab may be taken from January 1 through December 31 only under conditions of a permit issued by the commissioner.

(c) In the Saint Matthew Island Section,

(1) male blue king crab may be taken only from 12:00 noon October 15 through 11:59 p.m. February 1;

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(2) male golden king crab may be taken from January 1 through December 31 only under conditions of a permit issued by the commissioner.

(d) In the Norton Sound Section of the Northern District, male red king crab, male blue king crab, and male Hanasaki king crab may be taken only as follows:

(1) during a fishing season established by emergency order to open on or after June 15 and close 12:00 noon September 3, (summer season); and

(2) through the ice only, from 12:00 noon November 15 through 12:00 noon May 15 (winter season).

(e) Repealed 6/30/83.

(f) In the Kotzebue Sound Section,

(1) male red and blue king crab may be taken only as follows:

(A) during the summer season as follows:

(i) in the waters north of 66° N. lat., from 12:00 noon June 15 through August 1;

(ii) repealed 7/16/2006;

(B) through the ice only, from 12:00 noon November 15 through 12:00 noon May 15 (winter season);

(2) male golden king crab may be taken from January 1 through December 31 only under conditions of a permit issued by the commissioner.

5 AAC 34.915. Norton Sound Section red king crab harvest strategy. (a) The department shall manage the Norton Sound Section summer season red king crab fishery in accordance with 5 AAC 34.080 and 5 AAC 34.910, as follows:

(1) the threshold level of abundance of legal male red king crab biomass is 1.25 million pounds; the Norton Sound red king crab season may open only if analysis of preseason survey data indicates that the population of legal male red king crab exceeds this level;

(2) if the Norton Sound red king crab season is open under (1) of this subsection and the legal male red king crab biomass is less than two million pounds, the number of legal male red king crab available for harvest will be no more than seven percent of the legal male red king crab abundance;

(3) if the Norton Sound red king crab season is open under (1) of this subsection and the legal male red king crab biomass is at least two million pounds, but less than three million pounds, the number of legal male red king crab available for harvest will be no more than 13 percent of the legal male red king crab abundance;

(4) if the Norton Sound red king crab season is open under (1) of this subsection and the legal male red king crab biomass is three million pounds or more, the number of legal male red king crab available for harvest will be no more than 15 percent of the legal male red king crab abundance;

(5) when applying this harvest strategy, the department shall consider the reliability of the estimates of abundance of red king crab, other factors necessary to be consistent with sustained yield principles, the best scientific information available, and harvest efficiency;

(6) the commissioner may, by emergency order, reduce by small increments the closed waters described in 5 AAC 34.935(a) to no less than three miles from mean lower low tide

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to allow the commercial king crab fishery to efficiently obtain the allowable harvest of red king crab.

(b) Notwithstanding 5 AAC 39.690(e)(7), the commissioner may, by emergency order, open a CDQ fishery in Norton Sound, with an allocation of 7.5 percent of the forecasted guideline harvest level for male red king crab.

5 AAC 34.917. Saint Matthew Island Section blue king crab harvest strategy. (a) In the Saint Matthew Island Section, the commissioner may, by emergency order, open the blue king crab fishery only if the department's analysis of preseason survey data indicates that the population of blue king crab contains at least 1.609 million mature males.

(b) If the commercial blue king crab fishery is open under (a) of this section, and the estimated population number of mature males ("M") is

(1) at least 1.609 million mature males, but less than 3.217 million mature males, the number of legal males available for harvest will be no more than a percentage of the estimated population number of mature males equal to a number derived from the equation $[(M/3.217) \times 100 \text{ percent}]$ or 25 percent of the estimated population number of legal males, whichever is less;

(2) 3.217 million or more mature males, the number of legal males available for harvest will be no more than 10 percent of the estimated population number of mature males or 25 percent of the estimated population number of legal males, whichever is less.

(c) In implementing this harvest strategy, the Alaska Board of Fisheries directs the department to use the best scientific information available and to consider the reliability of estimates of blue king crab, the manageability of the fishery, and any other factors it determines necessary to be consistent with sustained yield principles.

(d) For the purposes of this section,

(1) "estimated population number" means the

(A) population number present at the time of the preseason survey as estimated directly by the area-swept method from annual trawl survey data, if a stock-assessment model is not used for abundance estimation;

(B) model-estimated population number present at the time of the preseason survey times the estimated survey selectivity and catchability, if a stock-assessment model is used for abundance estimation;

(2) "legal males" means all male blue king crab at least

(A) 5.5 inches in width of shell; or

(B) 120 millimeters in length of shell, if only shell length measurements are available in the preseason survey data;

(3) "mature males" means all male blue king crab at least 105 millimeters in length of shell.

5 AAC 34.918. Pribilof District blue king crab harvest strategy. (a) Notwithstanding 5 AAC 34.910(b)(1), in the Pribilof District, the commercial blue king crab fishery will open only if the department's analysis of preseason survey data indicates that the population of blue king crab

(1) contains an estimated spawning biomass of at least 13.2 million pounds for two consecutive years; and

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(2) will result in a total allowable catch for the fishery, established under (b) of this section, of at least 0.5 million pounds, not including the community development quota (CDQ) established under 5 AAC 39.690; neither the commercial blue king crab fishery or the CDQ fishery will open if the minimum guideline harvest level threshold is not met.

(b) The total allowable catch for the commercial blue king crab fishery is 10 percent of the estimated abundance of mature males or 20 percent of the number of legal males, whichever is less.

(c) In implementing this harvest strategy, the board directs the department to

- (1) use the best scientific information available;
- (2) consider the reliability of estimates of blue king crab;
- (3) consider the manageability of the fishery; and

(4) consider any other factors the department determines necessary to consistent with sustained yield principles.

(d) For the purposes of this section,

(1) "estimated spawning biomass" means the estimated biomass of all mature male and female blue king crab;

(2) "legal males" means all blue king crab that are at least six and one-half inches in width of shell;

(3) "mature males" means all male blue king crab that are at least 120 millimeters in length of shell.

5 AAC 34.920. Size limits for Registration Area Q. (a) In the Pribilof District, only male red and blue king crab six and one-half inches or greater, and male golden king crab five and one-half inches or greater, in width of shell, may be taken or possessed.

(b) In the Saint Matthew Island Section, only male blue and golden king crab five and one-half inches or greater in width of shell may be taken or possessed.

(c) In the Kotzebue Sound Section, only male red king crab four and three-quarters inches or greater, and male blue and golden king crab five and one-half inches or greater, in width of shell, may be taken or possessed.

(d) In the Norton Sound Section, only the following king crab may be taken or possessed:

- (1) male red king crab four and three-quarter inches or greater in width of shell;
- (2) male blue king crab five inches or greater in width of shell;
- (3) male Hanasaki king crab four and three-quarter inches or greater in width of shell.

5 AAC 34.925. Lawful gear for Registration Area Q. (a) King crab may be taken only with king crab pots, except that during the winter season for king crab in the Norton Sound Section, king crab may be taken through the ice with jigging gear as described in 5 AAC 02.010(a)(2). Jigging gear must be marked as described in 5 AAC 02.010(e)(1). King crab taken by other means must be returned to the water without further harm.

(b) In addition to the requirements of 5 AAC 39.145, in the Pribilof District and the Saint Matthew Island Section and Norton Sound Section of the Northern District, escape mechanism requirements for king crab pots are as follows:

- (1) in the Pribilof District, each king crab pot must have at least one-third of one

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vertical surface of the pot composed of not less than nine-inch stretched mesh webbing;

(2) in the Saint Matthew Island Section, each king crab pot must have eight rings with an inside diameter measure of 5.8 inches placed within one mesh measurement from the bottom of the pot, with four rings on two sides of a four-sided pot, and if the pot had no rings as specified in this paragraph, then one-half of one side of a four-sided pot must have a side panel composed of not less than eight-inch stretched mesh webbing;

(3) in the Norton Sound Section, each king crab pot must have at least four circular escape rings with a minimum inside diameter of four and one-half inches installed on a vertical plane within one mesh measurement from the bottom of the pot or have at least one half of one vertical surface of a square pot, or sloping side-wall surface of a conical or pyramid pot, composed of not less than six and one-half inch stretched mesh webbing to permit the escapement of undersized crab.

(c) Each pot used to take golden king crab must have no less than four circular escape rings of not less than five and one-half inches inside diameter installed on the vertical plane or have at least one-third of one vertical surface of the pot composed of not less than nine-inch stretched mesh webbing to permit the escapement of undersize golden king crab.

(d) In the Norton Sound and Kotzebue Sound Sections during the winter commercial king crab season, a king crab pot

(1) may be of any dimension or size;

(2) may be operated only through a solid ice cover;

(3) must be attached to the ice by a stake that is legibly marked with the name and address of the operator; and

(4) must have at least four circular escape rings with a minimum inside diameter of four and one-half inches installed on a vertical plane within one mesh measurement of the bottom of the pot or have at least one half of one vertical surface of a square pot, or sloping side-wall surface or a conical or pyramid pot, composed of not less than six and one-half inch stretched mesh webbing to permit the escapement of undersized king crab.

(e) During a commercial king crab season, the following pot limits are in effect:

(1) in the Pribilof District,

(A) in the red and blue king crab fisheries, an aggregate of no more than 250 pots may be operated from an individual vessel;

(B) in the golden king crab fishery, an aggregate of no more than 50 pots may be operated from a validly registered king crab vessel with an overall length of more than 125 feet, and an aggregate of no more than 40 pots may be operated from a validly registered king crab vessel with an overall length of 125 feet or less;

(2) in the Norton Sound Section of the Northern District, an aggregate of no more than 50 pots may be operated from a validly registered king crab vessel with an overall length of more than 125 feet, and an aggregate of no more than 40 pots may be operated from a validly registered king crab vessel with an overall length of 125 feet or less;

(3) in the Saint Matthew Island Section of the Northern District,

(A) in the blue king crab fishery, the operator of a vessel that is validly registered for the commercial blue king crab fishery may have on board the vessel, or in the water in fishing condition, no more than 10 groundfish pots, as defined in 5 AAC 28.050(e); not-

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withstanding 5 AAC 34.050(1) and (a) of this section, blue king crab taken from these pots may be legally retained;

(B) in the golden king crab fishery, an aggregate of no more than 75 pots may be operated from a validly registered king crab vessel with an overall length of more than 125 feet, and an aggregate of no more than 60 pots may be operated from a validly registered king crab vessel with an overall length of 125 feet or less;

(4) in the Kotzebue Sound Section of the Northern District, an aggregate of no more than 50 pots may be operated from a validly registered king crab vessel with an overall length of more than 125 feet, and an aggregate of no more than 40 pots may be operated from a validly registered king crab vessel with an overall length of 125 feet or less.

(f) In Registration Area Q, pots used to take golden king crab may be longlined. Notwithstanding 5 AAC 34.051, a buoy is not required for each pot, but each end of the longline must be marked by a cluster of four buoys. One buoy in the cluster must be marked in accordance with the specifications of 5 AAC 34.051 and include the initials "SL" to identify that the pots are on a shellfish longline. For the purposes of this subsection, "shellfish longline" is a stationary, buoyed, and anchored line with more than one shellfish pot attached.

(g) Repealed 8/14/2005.

(h) Repealed 8/14/2005.

(i) In the districts of Registration Area Q, a registered king crab vessel may not have, at any time in the aggregate, more than the legal limit of gear on board the vessel, in the water in fishing condition, and in the water in nonfishing condition. At the time of tank inspection required under 5 AAC 34.030, the gear must meet all specifications required by this chapter and 5 AAC 39, including identification, escape mechanisms, and mesh size requirements.

(j) A vessel engaged in taking or transporting king crab may not have on board an otter trawl with a ground line or headline longer than 60 feet.

(k) For the purposes of the section "overall length" means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments.

5 AAC 34.926. King crab pot marking requirements for Registration Area Q. (a) In addition to the provisions of 5 AAC 34.051, in Registration Area Q, the main buoy or trailer buoy may not display more than one identification tag issued under 5 AAC 34.051, and that tag must be one that was issued for the year that the fishery is occurring.

(b) In Registration Area Q, except in the Norton Sound Section of the Northern District, replacement of identification tags lost during the season is permitted if the vessel operator and three crewmembers submit sworn statements or affidavits, in person, at the department office in Dutch Harbor, describing how the tags were lost and listing the numbers of the lost tags.

5 AAC 34.927. King crab pot storage requirements for Registration Area Q. (a) Notwithstanding 5 AAC 34.052, in the Norton Sound Section of Registration Area Q, rectangular king crab pots with all bait and bait containers removed and all doors secured fully open, and cone or pyramid king crab pots with all bait and bait containers removed and all doors not secured closed, may be stored in waters deeper than 25 fathoms only for 72 hours following the closure of the commercial king crab season in the Norton Sound Section.

(b) In the Northern District of Registration Area Q, king crab pots may be stored only in waters north of 59° N. lat., south of 59° 30' N. lat., west of 169° 31' W. long., and east of

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171° W. long., or by removal from the water.

(c) From June 1 through August 31, king crab pots may not be stored in the waters around the Pribilof Islands shoreward of the 25-fathom isobath.

5 AAC 34.935. Closed waters in Registration Area Q. (a) Except as provided in 5 AAC 34.915(a)(6), all waters of the Norton Sound Section enclosed by a line from 64° 24.00' N. lat., 166° 15.00' W. long., to 64° 15.00' N. lat., 166° 15.00' W. long., to 64° 15.00' N. lat., 163° 30.00' W. long., to 64° 10.00' N. lat., 163° 30.00' W. long., to 64° 10.00' N. lat., 162° 00.00' W. long., to 64° 15.00' N. lat., 162° 00.00' W. long., to 64° 15.00' N. lat., 161° 30.00' W. long., to 64° 00.00' N. lat., 161° 30.00' W. long., to 64° 00.00' N. lat., 161° 15.00' W. long., to 63° 32.00' N. lat., 161° 15.00' W. long. are closed to the taking of king crab during the summer season.

(b) King crab may not be taken in waters within 10 miles of mean lower low water around St. Lawrence, King, and Little Diomed Islands.

(c) From November 15 through May 15, the waters of the Norton Sound Section enclosed by a line from 64° 30.17' N. lat., 165° 28.07' W. long., to 64° 27.13' N. lat., 165° 28.07' W. long., to 64° 25.50' N. lat., 165° 17.45' W. long., to 64° 28.55' N. lat., 165° 17.45' W. long., are closed to the taking of king crab.

(d) The waters of Alaska surrounding St. Matthew Island, Hall Island, and Pinnacle Island are closed to the taking of king crab.

5 AAC 34.940. Registration Area Q inspections and inspection points. (a) Registration Area Q inspection points are located at Dutch Harbor, or at other locations specified by the department.

(b) Notwithstanding 5 AAC 34.030, for the Saint Matthew Island Section of Registration Area Q, a registered king crab vessel may have its holds, live tanks, and freezers inspected by a local representative of the department at Dutch Harbor, Akutan, or King Cove within 72 hours before taking or processing king crab.

(c) Notwithstanding 5 AAC 34.030, for the Pribilof District of Registration Area Q, a registered king crab vessel may have its holds, live tanks, and freezers inspected by a local representative of the department at Dutch Harbor, Akutan, or King Cove within 30 hours before taking or processing king crab.

5 AAC 34.941. Landing requirements for Registration Area Q. (a) Notwithstanding 5 AAC 34.031(e), following the closure of any district in Registration Area Q to the taking of a specified species of king crab, a vessel validly registered for that district may not have that species of king crab on board the vessel in waters subject to the jurisdiction of the state, if delivery is made

(1) in the district or registration area in which the king crab were taken, after 30 hours following the closure;

(2) to Dutch Harbor, Akutan, or King Cove from the

(A) Pribilof District of Registration Area Q, after 30 hours following the closure, except that a vessel delivering to King Cove may request additional time to deliver crab under (b) of this section;

(B) Northern District of Registration Area Q in the

(i) Norton Sound Section, after the time specified at check out with a representative of the department in Nome;

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- (ii) Saint Matthew Island Section, after 72 hours following the closure;
- (iii) Kotzebue Sound Section, after 72 hours following the closure.

(b) If a vessel is delivering crab to a location east of King Cove, or if the vessel owner, or the owner's agent, wishes to request additional time to deliver king crab to King Cove under (a)(2)(A) of this section, the

(1) vessel owner, or the owner's agent, shall contact, by radio or telephone, a representative of the department in Dutch Harbor within 24 hours following the closure;

(2) representative of the department in Dutch Harbor shall grant a reasonable amount of additional time for the vessel to reach the port of delivery; the amount of additional time shall be determined under the assumption that the vessel departed the fishing grounds immediately after the closure and proceeded directly to the processing location, except that a vessel may stop en route and offload pots at a storage facility if the vessel operator first contacts a representative of the department in Dutch Harbor and provides information on the location of the storage facility, the expected time of gear placement at that facility, and the expected time the vessel will depart the storage facility en route to the port of delivery.

(c) For purposes of this section, a vessel validly registered for Registration Area Q, or a district or section in Registration Area Q, landing king crab at Dutch Harbor, Akutan, or King Cove will be deemed to have landed its catch in the area for which it is validly registered at the time of landing.

(d) To comply with 5 AAC 34.031(b), the vessel owner, owner's agent, or operator of a tender vessel registered for Registration Area Q that intends to land king crab in another registration area shall make the radio or telephone contact required under (b) of this section with a representative of the department at Dutch Harbor.

5 AAC 34.950. District registration. (a) Vessel and gear registered for Registration Area Q must also be registered for the Northern District before fishing in that district. Vessels and gear registered for the Northern District may not be used to fish in any other district. The registration district shall be indicated on the inspection certificate.

(b) Vessel and gear district registration may be voided or changed by the vessel owner or operator by completing a form provided by a local representative of the department. In addition, the representative at Dutch Harbor may authorize changes of district registration over the radio if radio contact is made by the vessel operator, provided the local representative determines that to do so would be consistent with sound enforcement policy.

(c) No vessel licensed as a commercial fishing vessel may have any unprocessed king crab on board within the Northern District in Registration Area Q unless the vessel is registered for that district.

(d) A vessel may be used for the taking of king crab within the Northern District only if it is currently registered for the district and is validly registered for Area Q.

(e) The commissioner may suspend and reinstate any of the requirements of this section if he finds that to do so would be in the public interest.

5 AAC 34.960. Application of regulations in the Norton Sound and Kotzebue Sound Sections of Registration Area Q. (a) From November 15 through May 15, the following regulations in this chapter do not apply in the Norton Sound and Kotzebue Sound Sections:

- (1) 5 AAC 34.020;

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- (2) 5 AAC 34.030;
- (3) 5 AAC 34.031;
- (4) 5 AAC 34.033;
- (5) 5 AAC 34.040(b) and (c);
- (6) 5 AAC 34.052;
- (7) 5 AAC 34.910(a);
- (8) 5 AAC 34.935(a) and (b);
- (9) 5 AAC 34.940.

(b) For purposes of this chapter, any craft used to transport king crab over the ice from a fishing location to a buyer is not considered to be a vessel.

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CHAPTER 35. TANNER CRAB FISHERY.

Article 1. Registration Areas.

5 AAC 35.001. Application of this chapter. Requirements set out in this chapter apply only to commercial fishing for Tanner crab, unless otherwise specified. Subsistence, personal use, and sport fishing regulations affecting commercial Tanner crab fishing vessels or affecting any other commercial Tanner crab fishing activity are set out in the subsistence fishing regulations in 5 AAC 02, personal use fishing regulations in 5 AAC 77, and sport fishing regulations in 5 AAC 47 – 5 AAC 75.

5 AAC 35.005. Registration areas established. (a) The following are Tanner crab registration areas and their code letters:

Code Letter

A – Southeastern Alaska Area (5 AAC 35.100)

D – Yakutat Area (5 AAC 35.160)

E – Prince William Sound Area (5 AAC 35.300)

H – Cook Inlet Area (5 AAC 35.400)

J – Westward Area (5 AAC 35.500)

(b) Each registration area identified in (a) of this section shall be designated as super-exclusive or nonexclusive.

(c) A vessel validly registered for a superexclusive registration area may not be used to take Tanner crab in any other registration area during that registration year. Unless otherwise specified in this chapter, a Tanner crab vessel validly registered for a nonexclusive registration area may not be used to take Tanner crab in a superexclusive registration area during that registration year. A vessel may register for more than one nonexclusive registration area.

5 AAC 35.010. Application of regulations. (a) Unless otherwise specified in this chapter, the regulations in this chapter applicable to a Tanner crab registration area also apply to the adjacent waters of the exclusive economic zone.

(b) The commissioner may suspend the application of this section to all or a portion of the waters of the exclusive economic zone adjacent to a Tanner crab registration area if the commissioner finds that

(1) application of this section fails to facilitate enforcement of regulations applicable to a registration area;

(2) application of this section fails to protect or conserve Tanner crab inhabiting territorial waters of Alaska; or

(3) the state has an insufficient interest in the Tanner crab inhabiting the waters of the exclusive economic zone to warrant extension of the jurisdiction of the state to the exclusive economic zone.

(c) For purposes of this chapter, "exclusive economic zone" means all the waters adjacent to a Tanner crab registration area and seaward to a boundary line drawn in such a manner that each point on the line is 200 nautical miles from the baseline from which the territorial sea is measured.

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5 AAC 35.020. Tanner crab area registration. (a) A person may use a vessel to take Tanner crab in a Tanner crab registration area and the exclusive economic zone adjacent to the registration area only if the vessel owner, or the owner's agent, has validly registered the vessel with the department for that Tanner crab registration area.

(b) Unless otherwise specified in this chapter, the vessel owner, or the owner's agent, shall validly register each Tanner crab vessel for a Tanner crab registration area before using the vessel to take Tanner crab in that registration area.

(c) The Tanner crab vessel registration year is August 1 – July 31.

(d) The department shall issue a registration certificate to a Tanner crab vessel if the vessel owner, or the owner's agent, completes a registration form available from the local AS 16 and this title. The vessel owner, or the owner's agent, shall sign the registration certificate when it is issued and shall keep it on board the vessel and available at all times during fishing operations. The registration certificate must be shown upon request to any peace officer of the state.

(e) In a Tanner crab registration area or district where tank inspections are required, a vessel registration is not valid until the vessel has had a tank inspection. A tank inspection is not complete unless, at the time of inspection, there is on board the vessel the holder of a valid CFEC interim use or limited entry permit, with the permit in possession, for the registration area or district and the Tanner crab species for which the vessel is registered. Successful completion of the inspection validates the vessel's registration for a registration area. If an inspection is not required in a registration area, compliance with (d) of this section validates the registration.

(f) The department may invalidate a vessel registration to permit the vessel to be used to take crab in other Tanner crab registration areas, except that once a vessel has been inspected for a superexclusive registration area, the department may not invalidate a vessel registration in order to permit the vessel to be used to take Tanner crab in another registration area.

(g) A vessel shall be issued an inspection certificate upon successful completion of an inspection required by this chapter or 5 AAC 35.030. An inspection is not complete unless a current registration certificate for the Tanner crab registration area is shown to the local representative of the department conducting the inspection. The vessel owner, or the owner's agent, shall sign the inspection certificate and shall keep it on the vessel and available at all times during fishing operations. The inspection certificate must be shown upon request to any peace officer of the state.

(h) An operator of a Tanner crab vessel validly registered for a superexclusive registration area may not operate any other Tanner crab vessel registered for any other superexclusive registration area in the same registration year.

(i) Unless otherwise specified in this chapter, a vessel validly registered to take Tanner crab in any Tanner crab registration area may not be used to take any other species of crab in any other crab registration area. A vessel may not be validly registered for more than one Tanner crab registration area at a time.

(j) The commissioner may authorize late registration of a replacement Tanner crab vessel in the event of the loss of a vessel registered for a specific Tanner crab registration area. A replacement vessel authorized to register late shall be registered only for the Tanner crab registration area in which the lost vessel was registered. In order to be authorized to register a replacement vessel under this subsection, the vessel owner, or the owner's agent,

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shall submit written documentation verifying the loss of the vessel. For purposes of this subsection, "loss of a vessel" means that due to sinking or destruction the vessel is incapable of being used to take Tanner crab during the Tanner crab season in the registration area for which the vessel is registered.

(k) A Tanner crab vessel registration is invalid 24 hours after the closure of the season for that Tanner crab registration area.

(l) If a deadline for a vessel registration for a Tanner crab fishery falls on a Saturday, Sunday, or state holiday, the registration deadline is extended to 5:00 p.m. the next state working day.

5 AAC 35.030. Inspection requirements. By announcement, the commissioner may require a registered Tanner crab vessel to have all holds, live tanks, and freezers inspected before or during an open Tanner crab fishing season.

5 AAC 35.031. Tanner crab landing requirements. (a) Unless otherwise specified in this chapter and except as provided in (b) of this section, a Tanner crab vessel shall land all Tanner crab in the registration area for which it is validly registered at the time of the landing.

(b) The owner, or the owner's agent, of a Tanner crab vessel validly registered for a registration area that intends to land Tanner crab in another registration area shall contact, by radio or telephone, a local representative of the department for an authorization before leaving the registration area for which that vessel is registered and shall submit to an inspection at a location specified by the representative. The vessel owner, or the owner's agent, shall contact the representative located in the registration area for which that vessel is validly registered at the time of the contact. A vessel landing Tanner crab in another registration area under an authorization granted under this subsection may not, at the time of landing, have more Tanner crab on board than were present at the time of the inspection. If the local representative of the department does not require an inspection under this subsection, the vessel owner, or the owner's agent, making radio or telephone contact shall state to the representative the amount of Tanner crab on board the vessel at the time of the contact. A vessel authorized to land Tanner crab in another registration area without an inspection may not land 10 percent more or less Tanner crab than the amount stated at the time of the contact with the representative.

(c) Unless otherwise specified in this chapter, after 24 hours following the closure of a Tanner crab registration area, a Tanner crab vessel registered for that area may not have Tanner crab on board while it is in waters subject to the jurisdiction of the state

(1) unless the vessel is otherwise in compliance with 5 AAC 35.020, and 5 AAC 35.030 if applicable;

(2) unless the vessel owner, or the owner's agent, has contacted in person or by radio or telephone a local representative of the department at a landing port or inspection point specified in this chapter or by the department, and the representative has authorized the extended possession of Tanner crab; contact with the representative must be made within the 24-hour period following the season closure for the registration area;

(3) unless the vessel owner, or the owner's agent, that catches and processes Tanner crab has complied with the gear storage requirements in 5 AAC 35.052(a)(1), and the landing requirements specified in this section or specified for a specific registration area, and has contacted a local representative of the department within the times specified in this

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subsection, and the representative has authorized extended possession of Tanner crab for purposes of processing or transportation;

(4) unless, if the Tanner crab are processed, no more than 90 days have passed since the closure of the registration area or district, and the vessel is carrying a department-approved onboard observer for the entire 90-day period.

(d) Except in Registration Area A, the provisions of (a) – (c) of this section also apply to the closure of districts, subdistricts, sections, or any other portion of a registration area.

(e) The owner, or the owner's agent, of a vessel landing Tanner crab under an authorization granted under (b) of this section shall attach the inspection certificate issued under 5 AAC 35.020 to the back of the department copy of the fish ticket at the time the Tanner crab are landed.

(f) The owner, or the owner's agent, of a Tanner crab vessel that has sunk or upon which the death of a crewmember has occurred that prevents timely removal or storage of gear at the time of closure, as specified in 5 AAC 35.052, may apply to the commissioner for a permit to sell legal size male Tanner crab taken when the pots are retrieved by the vessel owner, or the owner's agent, after the Tanner crab season is closed in the registration area. The application must be made within 14 days after the sinking of the vessel or death of a crewmember as described in this subsection. A fish ticket for a delivery made under this subsection must attribute the harvest of the Tanner crab to the lost vessel or the vessel upon which the death of a crewmember has occurred.

(g) A catcher-processor vessel carrying processed Tanner crab out of state waters that had 100 percent onboard observer coverage during the fishing season, is not required to carry an onboard observer while transiting out of state waters if

(1) the vessel departs to the port where it will off-load its Tanner crab within 21 days after departing the registration area;

(2) the vessel owner, or the owner's agent, gives a check out/check in report by notifying the department at least 24 hours in advance of the vessel's departure time and of its estimated time of arrival at the port where the vessel will off-load Tanner crab;

(3) the vessel has a pre-transit inspection by the department before departing;

(4) the vessel proceeds immediately and directly to the port where it will off-load Tanner crab;

(5) the vessel owner, or the owner's agent, notifies the department upon arrival at the port where the vessel will off-load Tanner crab;

(6) the vessel owner, or the owner's agent, complies with any department request for copies of off-load shipping documents; and

(7) the vessel owner, or the owner's agent, cooperates with a department request for an independent third party verification of an off-loading under this section.

5 AAC 35.033. Tenders for Tanner crab. (a) A vessel used to tender Tanner crab for a vessel validly registered to take Tanner crab may not have Tanner crab gear or equipment on board the tendering vessel and may not use that vessel to take Tanner crab.

(b) Before engaging in a tendering operation, the operator of a tendering vessel shall register that vessel with a local representative of the department within the Tanner crab registration area, district, or section in which the operator intends to operate that vessel.

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(c) Before leaving a Tanner crab registration area, district, or section for which it is registered, the operator of a tendering vessel shall contact, in person or by radio or telephone, a local representative of the department in the registration area where the vessel is operating. At the time of the contact with the representative, the tendering vessel operator shall state the number of Tanner crab on board the vessel and the vessel's unloading destination.

5 AAC 35.035. Closure of Tanner crab registration areas and appeal procedure. Within five days after the closure of a Tanner crab registration area or portion of a registration area, the owner, or the owner's agent, of a Tanner crab vessel that was validly registered for that area may formally request, in writing, that the commissioner reopen the area. The commissioner shall consider all relevant information concerning the condition of Tanner crab stocks within the closed registration area. Within 14 days after the receipt of the request, the commissioner shall publicly announce a decision to retain the closure or reopen the area by emergency order.

Article 2. General Provisions.

5 AAC 35.050. Lawful gear for Tanner crab. Unless otherwise specified in this chapter,

(1) Tanner crab may be taken only with Tanner crab pots and ring nets; Tanner crab taken by other means must be returned to the water without further harm;

(2) a Tanner crab pot is a pot that is no more than 10 feet long by 10 feet wide by 42 inches high with rigid tunnel eye openings that individually are less than five inches (13 cm) in one dimension with tunnel eye opening perimeters that individually are more than 36 inches (91.4 cm) or a pot that is no more than 10 feet long by 10 feet wide by 42 inches high and that tapers inward from its base to a top that consists of one horizontal opening of any size;

(3) Tanner crab pots with tunnel eye openings on the vertical plane of the pot that are used to take Tanner crab during the closed king crab season in any area may not have tunnel eye openings more than five inches (13 cm) in height.

5 AAC 35.051. Tanner crab gear marking requirements. At least one buoy on each Tanner crab pot or ring net must be legibly marked with the permanent ADF&G vessel license plate number of the Tanner crab vessel operating the gear. The buoy must bear only the number of the vessel used in operating the gear. The number shall be painted on the top one-third of the buoy in numerals at least four inches high and one-half inch wide, in a color contrasting to that of the buoy. The buoy markings must be visible on the buoy above the water surface when the buoy is attached to the crab pot.

5 AAC 35.052. Tanner crab gear storage requirements. (a) Unless otherwise specified in this chapter, during the closed season for Tanner crab in a registration area, Tanner crab pots must be removed from the water, except rectangular Tanner crab pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid Tanner crab pots with all bait and bait containers removed and with all doors not secured closed, may be stored in waters

- (1) of 25 fathoms or less in depth; or
- (2) deeper than 25 fathoms only for

(A) seven days following the season closure for Tanner crab in that registration area;

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(B) 72 hours following the closure of any portion of that registration area;

(3) if the vessel owner, or the owner's agent, has contacted, in person or by radio or telephone, the local representative of the department at a landing port or inspection port specified in this chapter for a specific registration area or a port specified by the department and has requested and been granted an extension of time to remove and store pots due to a major vessel breakdown or extreme weather conditions.

(b) A pot stored under this section may not have any portion of the line attaching the pot to a buoy or buoys floating on the surface of the water at any time, except for that portion of the line connecting the main buoy to a trailer buoy or buoys.

(c) Provisions in this section may be modified by regulations for specific registration areas.

5 AAC 35.053. Operation of other pot gear. Unless otherwise specified in 5 AAC 31 – 5 AAC 38,

(1) a person or vessel that operates commercial, subsistence, sport, or personal use pots, during the 14 days immediately before the opening of the commercial Tanner crab season in a Tanner crab registration area or, with respect to Registration Area J, in that district of Registration Area J where the fishing with pots occurred, may not participate in the commercial Tanner crab fishery in the Tanner crab registration area where the fishing with pots occurred, except that a person or vessel is not disqualified from the commercial Tanner crab fishery by placing Tanner crab pots with bait and bait containers removed and with the doors secured open in waters that are 25 fathoms or less in depth or as otherwise specified in 5 AAC 35; a person or vessel that participates in a commercial Tanner crab fishery in a Tanner crab registration area or, with respect to Registration Area J, in that district of Registration Area J where the fishing with pots occurred, may not operate commercial, subsistence, sport, or personal use pots in that registration area during the 14 days after the close of the commercial Tanner crab season; a vessel or person may operate other commercial pots in a Tanner crab registration area after putting Tanner crab pots in storage, as specified in 5 AAC 35.052, and, unless the registration is already invalidated under 5 AAC 35.020(k), after invalidating the vessel's Tanner crab registration by contacting, in person, a local representative of the department;

(2) during a commercial Tanner crab fishery, a person or vessel validly registered for that fishery may not operate commercial, subsistence, sport, or personal use pots other than commercial Tanner pots, except that a person or vessel may stop participating in the commercial Tanner crab fishery and instead operate commercial pots other than Tanner crab pots if

(A) the Tanner crab pots are put in storage, as specified in 5 AAC 35.052; and

(B) the vessel owner, or the owner's agent, contacts a representative of the department, in person, and requests that the Tanner crab registration be invalidated.

5 AAC 35.055. Permits for processing vessels. The owner or operator of a vessel used in the processing of Tanner crab shall obtain a permit from the department before starting processing operations. The permit must contain the following requirements:

- (1) reporting of vessel location to the department;
- (2) reporting of harvesting or processing operations to the department;
- (3) reporting of unloading and transport operations to the department;

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(4) permission for local representatives of the department to inspect at any time the vessel's holds, live tanks, freezers, processing areas, and processed and unprocessed Tanner crab; and

(5) reporting of any other information required by the department for the conservation and development of Tanner crab resources.

5 AAC 35.057. Postseason Tanner crab pot recovery permits. (a) The department may issue, under the provisions of this section, a permit for the Bering Sea, Eastern Aleutian, and Western Aleutian Districts of Registration Area J to a person or vessel to recover

(1) lost Tanner crab pot gear belonging to another vessel or person; or

(2) Tanner crab pot gear for a vessel that has experienced a major mechanical breakdown.

(b) The permit issued under this section may specify

(1) requirements for a vessel area check-in and check-out procedure to be used by the vessel or person;

(2) requirements for the vessel or person to notify the department by radio, telephone, or telex at the beginning and the completion of the pot gear recovery operations;

(3) requirements for vessel tank inspections before, and at the conclusion of, the pot recovery operation at locations specified by the department;

(4) other necessary conditions as determined by the department.

(c) Before receiving a permit under this section to recover Tanner crab pot gear belonging to another vessel or person, the permit applicant must furnish to the department written authorization for the requested pot gear recovery from the owner of the lost gear or the owner or operator of the vessel experiencing a major mechanical breakdown. If the recovery permit is being issued to recover lost gear, the authorization must contain the last known location of the Tanner crab pots and specific identification markings. If the recovery permit is being issued due to a major mechanical breakdown of a vessel, the authorization must include the exact location of the Tanner crab pots and specific identification markings and a written explanation by a qualified repair facility detailing the extent of the damage and estimated time for repairs.

(d) Pot gear recovery operations under this section may only be performed during a closed season and may not be conducted by or for any vessel or person that, at the time of pot gear recovery operations, is registered for any pot fishery in the Bering Sea, Eastern Aleutian, and Western Aleutian Districts of Registration Area J.

(e) All crab remaining in any pot gear recovered under this section must be immediately returned to the sea without further harm.

5 AAC 35.060. Size limit for Tanner crab. (a) Unless otherwise provided in this chapter, male Tanner crab of the species *Chionoecetes bairdi* five and one-half inches or greater in width of shell may be taken or possessed.

(b) Width measurement of Tanner crab shall be the greatest straight-line distance across the carapace at a right angle to a line midway between the eyes to the midpoint of the posterior portion of the carapace and shall include the spines.

5 AAC 35.065. Female and undersize Tanner crab. Male Tanner crab less than minimum size and female Tanner crab may not be taken or possessed. Such Tanner crab which have been taken must be immediately returned unharmed to the sea.

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5 AAC 35.075. Reporting of Tanner crab catches lost or not purchased. (a) Each Tanner crab fisherman shall indicate on the fish ticket at the time of landing any Tanner crab harvested which are not purchased by the processor or buyer, or which have been dumped at sea.

(b) Each buyer of Tanner crab shall indicate on the fish ticket any Tanner crab which was not purchased from a load.

5 AAC 35.080. Harvest strategy. The department shall establish an annual harvest strategy for each Tanner crab stock that is consistent with the board's *Policy on King and Tanner Crab Resource Management* (90-04-FB, March 23, 1990), adopted by this reference. If adequate data are available, the department shall establish a threshold level of abundance for each stock and may not allow fishing on any stock that is below its threshold level of abundance. Data used to determine guideline harvest levels and, if appropriate, exploitation rates, may include estimates of exploitable biomass, estimates of recruitment, estimates of threshold level of abundance, estimates of acceptable biological catch, historical fishery performance data, estimates of reproductive potential, and market or other economic considerations. Except for those closures authorized by 5 AAC 35.035, the department may not change established harvest strategies unless the board has reviewed the change.

Editor's note: Copies of the policy statement adopted by reference in 5 AAC 35.080 are available on page 163 of this booklet, at regional offices of the Department of Fish and Game, and from the department's Juneau office, PO Box 115526, Juneau, Alaska 99811-5526.

5 AAC 35.081. Definition of "rigid" as applied to tunnel eye openings. In this chapter, "rigid," as applied to Tanner crab pot tunnel eye openings, means that after placing 20 pounds of pressure, in any direction, anywhere around the perimeter of the tunnel eye opening, the opening is no larger than a maximum dimension allowed under this chapter.

Article 5. Registration Area A (Southeastern).

5 AAC 35.100. Description of Registration Area A. Registration Area A has as its southern boundary the International Boundary at Dixon Entrance, and as its northern boundary a line extending seaward from the western tip of Cape Fairweather at 58° 47.89' N. lat., 137° 56.68' W. long. to the intersection with the seaward limit of the three-nautical-mile territorial sea at 58° 45.91' N. lat., 138° 01.53' W. long.

5 AAC 35.105. Description of Registration Area A districts. Registration Area A districts are described in 5 AAC 33.200.

5 AAC 35.106. Area A registration. (a) Registration Area A is a superexclusive registration area.

(b) A Tanner crab vessel may not be registered in Registration Area A simultaneously as both a pot and ring net vessel. A vessel's registration may be changed during the open Tanner crab season if the owner, or the owner's agent, submits a written request for a change in registration to the department for validation.

(c) In Registration Area A, the vessel registration under 5 AAC 35.020 must be completed no later than 30 days before the scheduled opening date of the commercial Tanner crab season.

(d) Before a vessel that is registered to fish for both golden king crab and Tanner crab in Registration Area A may be used to fish for golden king crab in a portion of Registration Area A that is closed to commercial Tanner crab fishing, all Tanner crab must be removed from the vessel and the vessel owner, or the owner's agent, must have the vessel's Tanner

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crab registration invalidated by the department. Once the vessel's Tanner crab registration is invalidated, Tanner crab may not be retained on or sold from that vessel.

(e) Before a vessel that is registered to fish for only golden king crab in Registration Area A may be registered to fish for Tanner crab in Registration Area A, the vessel owner, or owner's agent, must remove all gear operated from that vessel from the waters of that portion of Registration Area A that is closed to commercial Tanner crab fishing.

5 AAC 35.110. Fishing seasons for Registration Area A. (a) Male Tanner crab may be taken only from 12:00 noon on the date with the smallest Juneau tidal range between February 10 and February 17, as announced by emergency order, through May 1.

(b) A season opening may be delayed if the National Weather Service forecast for the major fishing areas in the Southeast Region contains gale force wind warnings of 35 knots and higher on the 4:00 a.m. forecast for the day preceding the start date and the following day, in which case the season opening in all sections of Registration Area A eligible for a season opening will be delayed 24 hours and announcement of this delay will be issued 24 hours before the start of the fishery. If after the initial delay gale warnings continue regionwide, the season opening in all eligible sections may be delayed an additional 24 hours. A season opening delay may continue on a rolling 24-hour basis. For the purposes of this subsection, the corresponding National Weather Service forecast areas considered within the Southeast Region are as follows:

- (1) Southern Lynn Canal;
- (2) Northern Chatham Strait;
- (3) Stephens Passage;
- (4) Frederick Sound.

5 AAC 35.112. Permits for tanneri and angulatus Tanner crab in Registration Area A.

(a) Male Tanner crab of the species *Chionoecetes tanneri* and *Chionoecetes angulatus* may be taken in Registration Area A only under the conditions of a permit issued by the commissioner.

(b) *C. tanneri* and *C. angulatus* Tanner crab may be taken only with pots as follows:

- (1) no more than 100 pots may be operated from a vessel;
- (2) pots may be longlined.

(c) Fishing operations are restricted to waters 200 fathoms or greater in depth.

(d) The permit required in (a) of this section

(1) may, notwithstanding (c) of this section, restrict the depth of fishing operations;

(2) may specify season dates; the season may be closed during periods before and after other shellfish fisheries;

(3) may specify areas of fishing operations by district, subdistrict, or registration subareas;

(4) may establish minimum legal size limits;

(5) may require an onboard observer during all operations;

(6) may specify the type, size, and configuration of pots; pots must include an escape mechanism designed to allow female and undersize male crab to exit the pot during fishing operations;

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(7) may require mandatory completion of logbooks provided by the department and require that the logbooks be attached to the fish ticket at the time of landing; and

(8) may set other conditions deemed necessary by the commissioner for conservation and management purposes.

(e) Participants must hold a Registration Area A Tanner crab limited entry permit (either permanent or interim) and, except as provided in (f) of this section, may not have fished in any other superexclusive registration area for Tanner crab.

(f) Notwithstanding 5 AAC 35.005, participation in superexclusive *Chionoecetes bairdi* or *Chionoecetes opilio* Tanner crab fisheries does not exclude a vessel or permit holder from participation in the permit fishery under this section in any area during periods when other Tanner crab fisheries in that area are closed.

5 AAC 35.113. Registration Area A Tanner crab harvest strategy. (a) In Registration Area A, the minimum stock threshold for a commercial Tanner crab fishery is 2,300,000 pounds of mature male Tanner crab, measured by one-half of the long-term average (1997 – 2007) of mature male abundance. If the estimated abundance of mature male Tanner crab is below 2,300,000 pounds, the commercial Tanner crab fishery will remain closed.

(b) The department shall manage the commercial Tanner crab fishery under a harvest strategy in which the commissioner, by emergency order, opens and closes fishing periods as follows:

(1) the initial period of the commercial Tanner crab fishing season in the core areas and noncore areas will be at least five days in length, and may be increased with additional fishing days allowed based on the estimated biomass of mature male crab and the number of registered pots at the start of the fishery, as follows:

Pots registered	Additional fishing days	
	If the mature biomass is at least 2,300,000 pounds, but less than 5,500,000 pounds	If the mature biomass is 5,500,000 pounds or greater
1,600 – 2,399	4 additional days	5 additional days
2,400 – 3,199	3 additional days	4 additional days
3,200 – 3,999	2 additional days	3 additional days
4,000 – 4,799	1 additional day	2 additional days
4,800 – 5,599	1 additional day	2 additional days
5,600 – 6,399	0 additional days	1 additional day
6,400 – 7,000	0 additional days	1 additional day

(2) at the end of the initial period, the core areas will close to fishing, and the noncore areas will remain open for an additional five days.

(c) For the purposes of this section,

(1) "core areas" includes the following waters in Registration Area A:

(A) Icy Strait: waters west of a line from Point Sophia to 58° 14.00' N. lat., 135°

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16.00' W. long., including the waters of Port Frederick and Excursion Inlet, and waters east of Section 14-A, including the waters of Glacier Bay not closed by the National Park Service;

(B) St. James Bay: waters west of a line from Point Whidbey to 58° 33.00' N. lat., 135° 09.60' W. long.;

(C) District 15: waters east of a line from the north tip of Little Island to Point St. Mary, including Berners Bay;

(D) Section 11-A: waters of Section 11-A in Stephens Passage;

(E) Section 11-B: waters north of line from Point Arden to Circle Point and east of a line from Point Arden to Point Bishop, including all waters of Taku Inlet;

(F) Seymour Canal: waters north of 57° 37.00' N. lat.;

(G) Port Snettisham: waters east and north of a line from Point Styleman to Point Anmer;

(H) Endicott Arm and Tracy Arm: waters east of a line from Point Coke to Point Astley;

(I) Gambier Bay: waters west of a line from Point Gambier to 57° 24.90' N. lat., 133° 53.00' W. long.;

(J) Pybus Bay: waters north and west of a line from Point Pybus to the easternmost tip of San Juan Island to a point at 57° 14.60' N. lat., 134° 07.30' W. long.;

(K) Section 13-C, excluding Sitkoh Bay;

(L) Keku Strait, Port Camden and associated bays: waters southeast of a line from Cornwallis Point at 56° 55.91' N. lat., 134° 16.42' W. long. to Point McCartney at 57° 01.49' N. lat., 134° 03.51' W. long. and west of a line from Point Camden at 56° 48.66' N. lat., 133° 52.79' W. long. to Salt Point Light at 56° 50.68' N. lat., 133° 52.02' W. long.;

(M) Frederick Sound: waters east of a line from Bay Point to Boulder Point including Farragut Bay, Thomas Bay, Section 8-A, and Section 8-B, and north and east of a line from Mitchell Point to Point St. John, including Kah Sheets Bay, Duncan Canal, and Wrangell Narrows;

(2) "noncore areas" includes those portions of districts in Registration Area A that are not described in (1) of this subsection.

5 AAC 35.115. Guideline harvest level for Registration Area A. Repealed 7/29/2009.

5 AAC 35.116. Tanner crab ring net harvest management policy for Registration Area A. The Registration Area A Tanner crab fishery is to be regulated in a manner that will result in no less than 96 percent of the Tanner crab catch being taken by the pot fishery and no more than four percent by the ring net fishery. This is a long-term management goal and does not require the department to use emergency order authority to achieve the goal within any one season. Based upon the percent of the total harvest taken by ring net fishermen during the general fishing season, the department may restrict the time allowed in the subsequent year's general season to restrain the harvest by ring net fishermen so as not to exceed the four percent guidelines.

5 AAC 35.120. BCS control measures. (a) The department shall manage Tanner crab stocks in Registration Area A to minimize the spread, and to reduce the incidence, of bitter crab syndrome (BCS). The department shall identify areas of significant infection by BCS, in which the following restrictions apply:

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(1) a person shall contact a local representative of the department before fishing for Tanner crab in an area of significant infection by BCS and shall contact a local representative of the department before leaving the area; all fishing vessels shall deliver all Tanner crab harvested in an area of significant infection by BCS to a tender or processor, and may not discard the crab overboard;

(2) an operator of a tender vessel shall contact a local representative of the department before operating in an area of significant infection by BCS; an operator of a tender vessel that takes crab on board in such an area

(A) shall transport all Tanner crab harvested in the BCS area directly to a processing facility;

(B) may not accept Tanner crab from fishing vessels after leaving the area;

(C) shall hold Tanner crab infected with BCS in containers that do not contain circulating sea water.

(b) By emergency order, the department may open the commercial Tanner crab season after October 1 in areas of significant infection by BCS.

5 AAC 35.125. Lawful gear for Registration Area A. (a) Tanner crab may be taken only with Tanner crab pots or ring nets. Tanner crab taken by other means must be returned to the water without further harm.

(b) The following Tanner crab gear limits are in effect in Registration Area A:

(1) no more than 80 Tanner crab pots may be operated from a vessel registered to fish for Tanner crab;

(2) no more than 20 Tanner crab ring nets may be operated from a vessel registered to fish for Tanner crab;

(3) when the commercial golden king crab and Tanner crab seasons are open in Registration Area A at the same time, an aggregate of no more than 80 king and Tanner crab pots may be operated from a vessel registered to fish for both king and Tanner crab;

(4) when the commercial red king crab and Tanner crab seasons are open in Registration Area A at the same time, no more than the number of pots allowed under 5 AAC 34.125 may be operated from a vessel registered to fish for both king and Tanner crab;

(5) Tanner crab ring nets may not be longlined.

(c) In Registration Area A, a Tanner crab ring net is a bag-shaped net suspended between no more than two frames. The bottom frame may not be larger in perimeter than the top frame and the maximum diameter of the ring net may not exceed six feet for a round ring net. For a ring net with a frame that is not round, the area encompassed by the larger frame may not exceed 29 square feet. The ring net web must be nonrigid and collapsible, and must lay flat so that when fishing it does not prohibit free movement of fish or shellfish across the net.

(d) In Registration Area A, a registered Tanner crab vessel may not have, at any time in the aggregate, more than the legal limit of gear on board the vessel, in the water in fishing condition, and in the water in nonfishing condition.

(e) Repealed 9/27/2009.

(f) In Registration Area A, pots used to take Tanner crab must be rigged to permit escape-ment of undersize Tanner crab as follows:

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(1) at least one-third of one vertical surface of a square pot, or sloping surface of a conical or pyramid pot, must be composed of not less than seven-inch stretched mesh webbing, placed on the bottom one-third of the vertical or sloping sidewall surface of the pot; or

(2) no less than four circular escape rings of four and three-quarters inch minimum inside diameter must be installed on the vertical plane of a square pot, or the sloping sidewall surface of a conical or pyramid pot; the lowest edge of each escape ring must be within eight inches of the top of the bottom web bar on the pot; one escape ring must be installed in each quadrant of the pot.

5 AAC 35.126. Tanner crab gear marking requirements for Registration Area A. (a) In addition to the requirements of 5 AAC 35.051, in Registration Area A, in locations where a Tanner crab pot limit is in effect, each Tanner crab pot must have one identification tag issued by the department placed on the main buoy or on the trailer buoy if more than one buoy is attached to the pot.

(b) Identification tags are issued before each fishing season, are uniquely numbered for each registration year, and will be issued at the time of vessel registration for that vessel only. The vessel owner, or the owner's agent, shall apply for identification tags at a department office designated to issue the tags. Replacement of tags lost during the season is permitted if the vessel operator and at least one crewmember submit sworn statements or affidavits, in person at the department office that issued the tags, describing how the tags were lost and listing the numbers of the lost tags. Tags shall be renewed annually before each fishing season.

(c) Each Tanner crab ring net must have an identification tag, as specified in (a) of this section.

5 AAC 35.127. Tanner crab gear storage requirements for Registration Area A. (a) Rectangular Tanner crab pots with all bait and bait containers removed and all doors secured fully open, and cone or pyramid Tanner crab pots with all bait and bait containers removed and all doors not secured closed, may be stored in the water only

(1) for seven days following the season closure for Tanner crab in Registration Area A;

(2) for five days following the season closure for Tanner crab in any portion of Registration Area A;

(3) during the 10 days before the opening of the commercial king and Tanner crab seasons in Registration Area A only under the following conditions:

(A) a pot may not be stored in waters deeper than 10 fathoms at mean low tide; and

(B) buoys must be attached to stored pots and must be marked as specified in 5 AAC 35.051, except that a stack of stored Tanner crab pots or ring nets may be marked with a single buoy.

(b) Ring nets with all bait and bait containers removed may be stored in the water as specified in (a) of this section.

5 AAC 35.128. Operation of other gear in Registration Area A. (a) A person or vessel that operates commercial, subsistence, sport, or personal use pots or ring nets, other than commercial shrimp pots or Dungeness crab pots, during the 30 days immediately before the

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scheduled opening date of the commercial Tanner crab season in Registration Area A may not participate in that Tanner crab fishery.

(b) Notwithstanding 5 AAC 31.053(d), 5 AAC 32.053(d), and 5 AAC 35.053(2), a person or vessel may operate commercial shrimp pots or Dungeness crab pots during an open Tanner crab season in Registration Area A if the commercial shrimp or Dungeness crab season is open in Registration Area A at the same time as the commercial Tanner crab season.

5 AAC 35.130. Logbooks. (a) In Registration Area A, an operator of a vessel registered to fish using pot gear in the commercial Tanner crab fishery shall complete logbooks provided by the department.

(b) Logbooks described in (a) of this section shall be

- (1) updated daily;
- (2) sealed in envelopes provided by the department to maintain confidentiality; and
- (3) submitted to the primary processor or buyer for attachment to the fish ticket; the processor or buyer shall forward fish tickets with the attached, sealed envelopes containing logbooks to the department in accordance with 5 AAC 39.130.

(c) A catcher-seller described in 5 AAC 39.130 shall attach logbooks described in this section to the department copy of fish tickets.

(d) A person may not make a false entry in the logbook required in (a) of this section.

Editor's note: Logbooks required by this section are available at the Juneau, Ketchikan, Sitka, Haines, Wrangell, Petersburg, and Yakutat regional offices, or by writing to the Department of Fish and Game, commercial fisheries management and development division, shellfish section, P.O. Box 240020, Douglas, Alaska 99824-0020.

5 AAC 35.140. Registration Area A inspection points. Registration Area A inspection points are located at Ketchikan, Wrangell, Petersburg, and Juneau or at other locations specified by the department.

5 AAC 35.143. Reporting requirements for Tanner crab in Registration Area A. In addition to the reporting requirements in 5 AAC 39.130 and 5 AAC 35.075, the commissioner may require an owner or operator of a vessel registered to fish in the commercial Tanner crab fishery in Registration Area A to report to a local representative of the department the following information:

(1) the number of legal male Tanner crab on board the vessel and the number of pot lifts conducted during the fishing period in any fishing area, district, or portion of a district; and

(2) any other information that the commissioner determines is necessary for the conservation and management of the resource; the board directs the commissioner to consult with the fishing industry in developing reporting requirements under this paragraph.

5 AAC 35.155. Registration Area A closures. Within 24 hours following closure of Registration Area A to the taking of Tanner crab, all vessels with Tanner crab on board must arrive at a processing facility and remain until offloading of crab is complete, unless the vessel is otherwise in compliance with 5 AAC 35.031(c).

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Article 6. Registration Area D (Yakutat).

5 AAC 35.160. Description of Registration Area D. Registration Area D has as its western boundary the longitude of Cape Suckling (144° W. long.), and as its southern boundary a line extending seaward from the western tip of Cape Fairweather at 58° 47.89' N. lat., 137° 56.68' W. long. to the intersection with the seaward limit of the three-nautical-mile territorial sea at 58° 45.91' N. lat., 138° 01.53' W. long.

5 AAC 35.165. Description of Registration Area D districts. Registration Area D districts are described in 5 AAC 30.200.

5 AAC 35.166. Area D registration. Registration Area D is a nonexclusive registration area.

5 AAC 35.170. Fishing season for Registration Area D. Male Tanner crab may be taken only from 12:00 noon January 15 through May 1.

5 AAC 35.171. Permits for *tanneri* and *angulatus* Tanner crab in Area D. (a) Male Tanner crab of the species *Chionoecetes tanneri* and *Chionoecetes angulatus* may be taken in Registration Area D only under the conditions of a permit issued by the commissioner.

(b) *C. tanneri* and *C. angulatus* Tanner crab may be taken only with pots as follows:

- (1) no more than 100 pots may be operated from a vessel;
- (2) pots may be longlined.

(c) Fishing operations are restricted to waters 200 fathoms or greater in depth.

(d) The permit required in (a) of this section

(1) may, notwithstanding (c) of this section, restrict the depths of fishing operations;

(2) may specify season dates; the season may be closed during periods before and after other shellfish fisheries;

(3) may specify areas of fishing operations by district, subdistrict, or registration subareas;

(4) may establish minimum legal size limits;

(5) may require an onboard observer during all operations;

(6) may specify the type, size, and configuration of pots; pots must include an escape mechanism designed to allow female and undersize male crab to exit the pot during fishing operations;

(7) may require mandatory completion of logbooks provided by the department and require that the logbooks be attached to the fish ticket at the time of landing; and

(8) may set other conditions deemed necessary by the commissioner for conservation and management purposes.

(e) Participation in superexclusive Tanner crab fisheries does not exclude a vessel or permit holder from participation in this permit fishery in any area during periods when other Tanner crab fisheries in that area closed.

5 AAC 35.175. Maximum harvest level for Registration Area D. The maximum annual allowable harvest for Tanner crab is 1,000,000 pounds.

5 AAC 35.180. Lawful gear for Registration Area D. (a) Tanner crab may be taken only with Tanner crab pots and ring nets. Tanner crab taken by other means must be returned to the water without further harm.

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(b) The following Tanner crab gear limits are in effect in Registration Area D:

(1) an aggregate of no more than 100 Tanner crab pots and ring nets may be operated from a vessel registered to fish for Tanner crab;

(2) when both the commercial king and Tanner crab seasons are open in Registration Area D at the same time, an aggregate of no more than 100 king or Tanner crab pots and ring nets may be operated from a vessel registered to fish for both king and Tanner crab;

(3) Tanner crab may not be taken with pots that have tunnel eye openings located on the vertical plane of the pot;

(4) Tanner crab ring nets may not be longlined.

(c) In Registration Area D, a Tanner crab ring net is a bag-shaped net suspended between no more than two frames. The bottom frame may not be larger in perimeter than the top frame and the maximum diameter of the ring net may not exceed six feet for a round ring net. For a ring net with a frame that is not round, the area encompassed by the larger frame may not exceed 29 square feet. The ring net web must be nonrigid and collapsible, and must lay flat so that when fishing it does not prohibit free movement of fish or shellfish across the net.

(d) In Registration Area D, a pot used to take Tanner crab must be rigged to permit escapement of undersize Tanner crab as follows:

(1) at least one third of one vertical surface of a square pot, or sloping surface of a conical or pyramid pot, must be composed of not less than seven-inch stretched mesh webbing, placed on the bottom one-third of the vertical or sloping sidewall surface of the pot; or

(2) no less than four circular escape rings of four and three-quarters inch minimum inside diameter must be installed on the vertical plane of a square pot, or the sloping sidewall surface of a conical or pyramid pot; the lowest edge of each escape ring must be within eight inches of the top of the bottom web bar on the pot; one ring must be installed in each quadrant of the pot.

5 AAC 35.181. Tanner crab gear marking requirements for Registration Area D. (a) In addition to the requirements of 5 AAC 35.051, in Registration Area D, in locations where a Tanner crab pot limit is in effect, each Tanner crab pot must have one identification tag issued by the department placed on the main buoy or on the trailer buoy if more than one buoy is attached to the pot.

(b) Identification tags are issued before each fishing season, are uniquely numbered for each registration year, and will be issued at the time of vessel registration for that vessel only. The vessel owner, or the owner's agent, shall apply for identification tags at a department office designated to issue the tags. Replacement of tags lost during the season is permitted if the vessel operator and at least one crewmember submit sworn statements or affidavits, in person at the department office that issued the tags, describing how the tags were lost and listing the numbers of the lost tags. Tags shall be renewed annually before each fishing season.

(c) Each Tanner crab ring net must have an identification tag, as specified in (a) of this section.

5 AAC 35.182. Tanner crab gear storage requirements for Registration Area D. (a) Rectangular Tanner crab pots with all bait and bait containers removed and all doors secured

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fully open, and cone or pyramid Tanner crab pots with all bait and bait containers removed and all doors not secured closed, may be stored in the water only for

- (1) seven days following the season closure for Tanner crab in Registration Area D;
- (2) 72 hours following the season closure for Tanner crab in any portion of Registration Area D.

(b) Ring nets with all bait and bait containers removed may be stored in the water as specified in (a) of this section.

5 AAC 35.183. Operation of other gear in Registration Area D. (a) A person or vessel that operates commercial, subsistence, sport, or personal use pots or ring nets, other than commercial shrimp pots or Dungeness crab pots, during the 14 days immediately before the scheduled opening date of the commercial Tanner crab season in Registration Area D may not participate in that Tanner crab fishery.

(b) Notwithstanding 5 AAC 31.053(d), 5 AAC 32.053(d), and 5 AAC 35.053(2), a person or vessel may operate commercial shrimp pots or Dungeness crab pots during an open Tanner crab season in Registration Area D if the commercial shrimp or Dungeness crab season is open in Registration Area D at the same time as the commercial Tanner crab season.

5 AAC 35.185. Registration Area D inspection points. Registration Area D inspection points are located at Yakutat or at other locations specified by the department.

Article 7. Registration Area E (Prince William Sound).

5 AAC 35.300. Description of Registration Area E. Registration Area E has as its western boundary a line running along the longitude of Cape Fairfield at 148° 50.25' W. long., south to the latitude of Cape Douglas at 58° 51.10' N. lat., then west to 149° W. long., then south along 149° W. long., and as its eastern boundary the longitude of Cape Suckling at 144° W. long.

5 AAC 35.305. Description of Registration Area E districts. (a) Northern District: all waters north and west of a line from the southern entrance of Port Nellie Juan at 60° 35.87' N. lat. to Point Eleanor to the eastern tip of Smith Island to Johnstone Point, and north of a line from Point Bentinck to Point Whitshed.

(b) Western District: all waters east of a line from Cape Fairfield (148° 50.25' W. long.) south to the latitude of Cape Douglas at 58° 51.10' N. lat., then west to 149° W. long., then south along 149° W. long., south of a line from the southern entrance of Port Nellie Juan at 60° 35.87' N. lat. to Point Eleanor to the eastern tip of Smith Island to Montague Point, west of a line from Zaikof Point to Seal Rocks (60° 09.78' N. lat., 146° 50.30' W. long.), and west of the longitude of Seal Rocks (146° 50.30' W. long.).

(c) Eastern District: all waters east of the longitude of Seal Rocks (146° 50.30' W. long.), east of a line from Seal Rocks (60° 09.78' N. lat., 146° 50.30' W. long.) to Cape Hinchinbrook, south of a line from Point Bentinck to Point Whitshed, and west of the longitude of Cape Suckling (144° W. long.).

(d) Hinchinbrook District: all waters east of a line from Montague Point to the eastern tip of Smith Island, south of a line from the eastern tip of Smith Island to Johnstone Point, north and east of a line from Cape Hinchinbrook to Seal Rocks (60° 09.78' N. lat., 146° 50.30' W. long.), and east of a line from Seal Rocks (60° 09.78' N. lat., 146° 50.30' W. long.) to Zaikof Point.

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5 AAC 35.306. Area E registration. (a) Registration Area E is a superexclusive registration area.

(b) A Tanner crab vessel must be registered for Registration Area E before the scheduled opening date of the Tanner crab season.

5 AAC 35.310. Fishing seasons for Registration Area E. The commercial harvest of Tanner crab in the Prince William Sound Area is closed until the Board of Fisheries has adopted a harvest strategy in this chapter.

5 AAC 35.320. Size limits for Registration Area E. Only male Tanner crab 5.3 inches or greater in width of shell may be taken or possessed.

5 AAC 35.325. Lawful gear for Registration Area E. (a) Tanner crab may be taken only with Tanner crab pots and ring nets. Tanner crab taken by other means must be returned to the water without further harm.

(b) In the Eastern District, Tanner crab may be taken with pots that have tunnel eye openings that exceed five inches (13 cm) in one dimension.

(c) Each Tanner crab pot must have no less than four escape rings of no less than four and three-quarters inches (121 mm) inside diameter installed on the vertical plane to permit escapement of undersize Tanner crab.

(d) During the commercial Tanner crab season in the Prince William Sound Management Area, an aggregate of no more than 75 king and Tanner crab pots may be operated from a vessel registered to fish for Tanner crab.

5 AAC 35.326. Tanner crab pot marking requirements for Registration Area E. (a) In addition to the requirements of 5 AAC 35.051, in Registration Area E, in locations where a Tanner crab pot limit is in effect, each Tanner crab pot must have one identification tag issued by the department placed on the main buoy or on the trailer buoy if more than one buoy is attached to the pot.

(b) Identification tags are issued before each fishing season, are uniquely numbered for each registration year, and will be issued at the time of vessel registration for that vessel only. The vessel owner, or the owner's agent, shall apply for identification tags at a department office designated to issue the tags. Replacement of tags lost during the season is permitted if the vessel operator submits a sworn statement or affidavit to the department office that issued the tags, describing how the tags were lost and listing the numbers of the lost tags. Tags shall be renewed annually before each fishing season.

5 AAC 35.327. Tanner crab pot storage for Registration Area E. (a) Cone or pyramid Tanner crab pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial Tanner crab season in Registration Area E until 30 days after the closure of that season.

(b) The Tanner crab pot storage provisions in 5 AAC 35.052(a)(2)(A) apply to the Eastern and Western Districts of Registration Area E.

5 AAC 35.340. Registration Area E inspection points. Registration Area E initial inspection and reinspection points are located at Cordova, Valdez, and Seward or at other locations specified by the department.

5 AAC 35.345. Inspection requirements for Registration Area E. Within 24 hours before

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the scheduled opening date of the commercial Tanner crab season in Registration Area E or at any time during the open season, a Tanner crab vessel registered for Registration Area E must have all holds, live tanks, and freezers inspected by a local representative of the department at an inspection point specified in 5 AAC 35.340. Tanner crab may not be on board the vessel at the time of inspection. The requirements of this section do not apply to a registered Tanner crab vessel that does not have a saltwater circulation system in its holds or live tanks.

Article 8. Registration Area H (Cook Inlet).

5 AAC 35.400. Description of Registration Area H. Registration Area H has as its eastern boundary the longitude of Cape Fairfield (148° 50.25' W. long.) and as its southern boundary the latitude of Cape Douglas (58° 51.10' N. lat.).

5 AAC 35.405. Description of Registration Area H districts. Registration Area H districts are described in 5 AAC 21.200.

5 AAC 35.406. Area H registration. (a) Registration Area H is a superexclusive registration area.

(b) In Registration Area H, for the Tanner crab fishery, the vessel registration deadline for the registration year is 5:00 p.m. January 10.

5 AAC 35.408. Registration Area H Tanner crab harvest strategy. (a) The provisions of this section establishes the abundance thresholds for the Tanner crab fisheries in the Southern, Kamishak, and Barren Island Districts of Cook Inlet.

(b) In the Southern District, the minimum stock threshold for the commercial fishery is 500,000 legal male Tanner crab. The commercial Tanner crab fishery will open only under the following conditions:

(1) if the estimated abundance level of legal male Tanner crab is at least 1,000,000 crab, the commercial fishery will open to harvest Tanner crab at a rate, in combination with the noncommercial fisheries, not to exceed 25 percent of estimated abundance level of legal male Tanner crab;

(2) if the estimated abundance level of legal male Tanner crab is at least 500,000, but less than 1,000,000 crab, the commercial Tanner crab fishery will open to harvest Tanner crab at a rate, in combination with the noncommercial fisheries, not to exceed 15 percent of the estimated abundance level of legal male Tanner crab;

(3) the commercial fishery may not open if

(A) the estimated abundance level of legal male Tanner crab is below 500,000 crab;

(B) attainment of the guideline harvest level would cause legal male Tanner crab abundance to fall below 500,000 crab; or

(C) the estimated harvest capacity, calculated by the number of registered vessels multiplied by the legal pot limit, and the estimated catch rate exceeds the guideline harvest level during a commercial fishery of a minimum 12-hour duration;

(4) repealed 9/12/2008;

(5) repealed 9/12/2008.

(c) In the Kamishak and Barren Islands Districts, combined, the minimum stock threshold

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for the commercial fishery is 700,000 legal male Tanner crab. The commercial fishery will open only under the following conditions:

(1) if the estimated abundance level of legal male Tanner crab is 1,400,000 crab or greater, Tanner crab may be harvested at a rate, in combination with the noncommercial fisheries, not to exceed 25 percent of the estimated abundance level of legal male Tanner crab;

(2) if the abundance level of legal male Tanner crab is less than 1,400,000, but greater than 700,000 crab, Tanner crab may be harvested at a rate, in combination with the noncommercial fisheries, not to exceed 15 percent of the estimated abundance level of legal male Tanner crab;

(3) the commercial fishery may not open if

(A) the estimated abundance level of legal male Tanner crab is below 700,000 crab;

(B) the attainment of the guideline harvest level would cause the abundance of legal male Tanner crab to fall below 700,000 crab; or

(C) the estimated harvest capacity, calculated as the number of registered vessels multiplied by the legal pot limit and estimated catch rates, exceeds the guideline harvest level for a fishery of a minimum 24-hour duration.

(d) The noncommercial Tanner crab fisheries guideline harvest level may not exceed 10 percent of the recent three-year average of legal male stock abundance when legal male stock abundance is below the minimum stock threshold for a commercial fishery. The noncommercial Tanner crab fisheries will be closed

(1) in that portion of the Southern District east of a line from Point Pogibshi to Anchor Point, if the

(A) recent three-year average stock abundance of legal male Tanner crab estimated from the Kachemak Bay trawl survey is less than 100,000 Tanner crab; or

(B) estimated stock abundance of legal male Tanner crab is less than 50,000 Tanner crab in any given year;

(2) in the Southern District west of a line from Point Pogibshi to Anchor Point and the Kamishak and Barren Islands Districts, if the

(A) recent three-year average stock abundance of legal male Tanner crab estimated from the Kamishak Bay trawl survey is less than 50,000 Tanner crab; or

(B) estimated stock abundance level of legal male Tanner crab from the Kamishak Bay trawl survey is less than 40,000 in any given year.

5 AAC 35.410. Fishing seasons for Registration Area H. (a) In the Southern District, male Tanner crab may be taken only during periods established by emergency order within the period of January 15 through March 31. The orders must be based on weather factors that affect crab mortality, such as forecasted wind speed and air temperature.

(b) In all other districts, male Tanner crab may be taken only from 12:00 noon January 15 through March 31.

(c) Notwithstanding (b) of this section, the commercial harvest of Tanner crab in the Outer, Eastern, and Central Districts is closed until the Tanner crab stocks have recovered

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and a harvest strategy is developed by the department and adopted in a regulation by the Board of Fisheries. When the noncommercial fisheries in the Kamishak or Barren Island Districts are closed to the taking of Tanner crab, the noncommercial fisheries in the Eastern, Outer, and Central Districts shall also remain closed.

5 AAC 35.425. Lawful gear for Registration Area H. (a) Tanner crab may be taken only with Tanner crab pots and ring nets. Tanner crab taken by other means must be returned to the water without further harm.

(b) Each Tanner crab pot must have no less than four escape rings of no less than four and three-quarters inches inside diameter installed on the vertical plane to permit escapement of undersize Tanner crab.

(c) During a commercial Tanner crab season in Registration Area H, an aggregate of no more than 75 king and Tanner crab pots may be operated from a vessel registered to fish Tanner crab, except that in the Southern District,

(1) an aggregate of no more than 40 pots may be operated from a vessel if the guideline harvest level for Tanner crab in the Southern District is greater than 400,000 pounds, but not more than 800,000 pounds;

(2) an aggregate of no more than 20 pots may be operated from a vessel if the guideline harvest level for Tanner crab is less than 400,000 pounds.

5 AAC 35.426. Tanner crab gear marking requirements for Registration Area H. (a) In addition to the requirements of 5 AAC 35.051, in Registration Area H, in locations where a Tanner crab pot limit is in effect, each Tanner crab pot must have one identification tag issued by the department placed on the main buoy or on the trailer buoy if more than one buoy is attached to the pot.

(b) Identification tags are issued before each fishing season, are uniquely numbered for each registration year, and will be issued at the time of vessel registration for that vessel only. The vessel owner, or the owner's agent, shall apply for identification tags at a department office designated to issue the tags. Replacement of tags lost during the season is permitted if the vessel operator submits a sworn statement or affidavit to the department office that issued the tags, describing how the tags were lost and listing the numbers of the lost tags. Tags shall be renewed annually before each fishing season.

5 AAC 35.427. Tanner crab pot storage for Registration Area H. (a) Rectangular Tanner crab pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid Tanner crab pots with all bait and bait containers removed and all doors not secured closed, may be stored in the Kamishak District and in those waters of the Southern District west of a line from Coal Point to 60 Foot Rock to Anisom Point only in waters of not more than 15 fathoms deep. In all remaining waters of the Southern District, rectangular Tanner crab pots with all bait and bait containers removed and all doors secured fully open, and cone or pyramid Tanner crab pots with all bait and bait containers removed and all doors not secured closed, may be stored only in waters of not more than 10 fathoms deep.

(b) Cone or pyramid pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial Tanner crab season in Registration Area H until 30 days after the closure of that season.

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5 AAC 35.428. Operation of other gear in Registration Area H. A person or vessel that operates commercial, subsistence, sport, or personal use pots or ring nets, other than shrimp pots or Dungeness crab pots, during the 14 days immediately before the scheduled opening date of the commercial Tanner crab season in Registration Area H may not participate in that Tanner crab fishery, except that in the Southern District, a person or vessel operating groundfish pots during the 14 days before the scheduled opening date of the commercial Tanner crab season in Registration Area H may participate in that fishery after the groundfish pot gear is removed from the water.

5 AAC 35.440. Registration Area H inspection points. Registration Area H initial inspection points are located at Homer, Seldovia, and Seward. Reinspection points are located at Homer, Seldovia, Seward, and Kodiak or at other locations specified by the department.

5 AAC 35.445. Inspection requirements for Registration Area H. Within 24 hours before the scheduled opening date of the commercial Tanner crab season in Registration Area H or at any time during the open season, a Tanner crab vessel registered for Registration Area H must have all holds, live tanks, and freezers inspected by a local representative of the department at an inspection point specified in 5 AAC 35.440. Tanner crab may not be on board the vessel at the time of inspection. The requirements of this section do not apply to a registered Tanner crab vessel that does not have a saltwater circulation system in its holds or live tanks.

Article 10. Registration Area J (Westward).

5 AAC 35.500. Description of Registration Area J. Registration Area J includes all Pacific Ocean waters south of the latitude of Cape Douglas (58° 51.10' N. lat.), and west of 149° W. long., and all Bering Sea and Pacific Ocean waters east of the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as that Maritime Boundary Agreement Line is depicted on *NOAA Chart #513* (7th Edition, June 2004) and *NOAA Chart #514* (7th Edition, January 2004), adopted by reference.

Editor's note: Copies of the National Oceanic and Atmospheric Administration (NOAA) charts adopted by reference in 5 AAC 35.500 can be viewed, downloaded, and purchased at NOAA's website at <http://www.nauticalcharts.noaa.gov/staff/chartspubs.htm>. In addition, the charts are available for inspection at the Lieutenant Governor's Office, Juneau, Alaska.

5 AAC 35.505. Description of Registration Area J districts. (a) Kodiak District: all Pacific Ocean waters south of the latitude of Cape Douglas (58° 51.10' N. lat.), west of 149° W. long., and east of a line extending south from Cape Kumlik along 157° 27.00' W. long.

(1) Northeast Section: all waters of the Kodiak District northeast of a line extending 145° from Cape Chiniak at 57° 37.20' N. lat., 152° 09.37' W. long., east of a line between Inner Point and Afognak Point along 152° 47.75' W. long., east of 152° 30.00' W. long. in Shuyak Strait, and east of a line extending north from Shuyak Island along 152° 20.00' W. long.;

(2) Eastside Section: all waters of the Kodiak District southwest of a line extending 145° from Cape Chiniak at 57° 37.20' N. lat., 152° 09.37' W. long., northeast of a line extending 168° from Cape Barnabas at 57° 09.07' N. lat., 152° 52.20' W. long., and east of 153° 16.00' W. long. in Sitkalidak Strait;

(3) Southeast Section: all waters of the Kodiak District southwest of a line extending

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168° from Cape Barnabas at 57° 09.07' N. lat., 152° 52.20' W. long., east of 156° 20.22' W. long., south of a line extending 222° from Cape Trinity at 56° 44.80' N. lat., 154° 08.90' W. long., and west of 153° 16.00' W. long. in Sitkalidak Strait;

(4) Southwest Section: all waters of the Kodiak District west of a line extending 222° from Cape Trinity at 56° 44.80' N. lat., 154° 08.90' W. long., east of 156° 20.22' W. long., and south of a line from Cape Ikolik at 57° 17.40' N. lat., 154° 47.40' W. long. to a point offshore at 57° 14.01' N. lat., 155° 31.95' W. long., continuing to a point offshore at 56° 45.00' N. lat., 156° 20.22' W. long., including all of Alitak Bay and Olga Bay;

(5) Semidi Island Overlap Section: all waters of the Kodiak District west of a line extending south from the Alaska Peninsula, near Kilokak Rocks, along 156° 20.22' W. long., and east of a line extending south from Cape Kumlik along 157° 27.00' W. long.;

(6) Westside Section: all waters of the Kodiak District north of a line from Cape Ikolik at 57° 17.40' N. lat., 154° 47.40' W. long., continuing to a point offshore at 57° 14.01' N. lat., 155° 31.95' W. long., east of a line from a point offshore at 57° 14.01' N. lat., 155° 31.95' W. long., continuing to a point offshore at 58° 00.00' N. lat., 154° 00.00' W. long., continuing to a point offshore at 58° 51.10' N. lat., 152° 45.00' W. long., west of a line between Inner Point and Afognak Point along 152° 47.75' W. long., west of 152° 30.00' W. long. in Shuyak Strait, and west of a line extending north from Shuyak Island along 152° 20.00' W. long.;

(7) North Mainland Section: all waters of the Kodiak District enclosed by a line from Cape Douglas at 58° 51.10' N. lat., 153° 15.09' W. long. to a point offshore at 58° 51.10' N. lat., 152° 45.00' W. long., continuing to a point offshore at 58° 00.00' N. lat., 154° 00.00' W. long., continuing to the Alaska Peninsula at 58° 00.00' N. lat., 154° 47.68' W. long.;

(8) South Mainland Section: all waters of the Kodiak District enclosed by a line from the Alaska Peninsula at 58° 00.00' N. lat., 154° 47.68' W. long. to a point offshore at 58° 00.00' N. lat., 154° 00.00' W. long., continuing to a point offshore at 57° 14.01' N. lat., 155° 31.95' W. long., continuing to a point offshore at 56° 45.00' N. lat., 156° 20.22' W. long., continuing to the Alaska Peninsula, near Kilokak Rocks, at 57° 10.34' N. lat., 156° 20.22' W. long.

(b) South Peninsula District: all Pacific Ocean waters west of a line from Kupreanof Point at 55° 33.98' N. lat., 159° 35.88' W. long., to Castle Rock at 55° 16.80' N. lat., 159° 29.11' W. long. and extending 135° southeast from Castle Rock, and east of a line extending south from Scotch Cap Light along 164° 44.72' W. long.

(1) Eastern Section: all waters east of 162° W. long.;

(2) Western Section: all waters west of 162° W. long.

(c) Eastern Aleutian District: all waters between the longitude of Scotch Cap Light (164° 44.72' W. long.) and 172° W. long., and south of 54° 36' N. lat.

(1) Akutan Section: all waters of Alaska west of the longitude of Akun Head (165° 37.58' W. long) and east of the longitude of North Head (165° 51.08' W. long.) and north of a line from 54° 07.63' N. lat., 165° 39.88' W. long. to 54° 08.36' N. lat., 165° 38.36' W. long.;

(2) Unalaska/Kalekta Bay Section: all waters of Alaska west of the longitude of Erskine Point (166° 16.30' W. long.) and east of the longitude of Cape Cheerful (166° 40.33' W. long.);

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(3) Makushin/Skan Bay Section: all waters of Alaska south of the latitude of Cape Kovrizhka (53° 50.67' N. lat.) and north of the latitude of Spray Cape (53° 36.83' N. lat.);

(4) General Section: all remaining waters of the Eastern Aleutian District not described in (1) – (3) of this subsection.

(d) Western Aleutian District: all waters west of 172° W. long., and south of 54° 36' N. lat.

(e) Bering Sea District: all Bering Sea waters north of 54° 36' N. lat.

(1) Eastern Subdistrict: all waters of the Bering Sea District east of 173° W. long., including the waters of Bristol Bay;

(A) Norton Sound Section: all waters of the Eastern Subdistrict east of 168° W. long. and north of the latitude of Cape Romanzof;

(B) General Section: all waters of the Eastern Subdistrict not included in the Norton Sound Section;

(2) Western Subdistrict: all waters of the Bering Sea District west of 173° W. long.

(f) Chignik District: all Pacific Ocean waters east of a line from Kupreanof Point at 55° 33.98' N. lat., 159° 35.88' W. long., to Castle Rock at 55° 16.80' N. lat., 159° 29.11' W. long., and extending 135° southeast from Castle Rock, and west of a line extending south from Cape Kumlik along 157° 27.00' W. long.

5 AAC 35.506. Area J registration. (a) Registration Area J is a nonexclusive registration area, except the Kodiak and Chignik Districts are superexclusive registration districts.

(b) Notwithstanding (c) and (g) of this section, a Tanner crab vessel validly registered for the Chignik District may be used to take Tanner crab in the Semidi Island Overlap Section of the Kodiak District, as specified in 5 AAC 35.507.

(c) A Tanner crab vessel may not be registered to take Tanner crab in more than one district of Registration Area J at a time.

(d) A Tanner crab vessel from which pots having identification tags required by 5 AAC 35.526 are fished may not be, at the same time, validly registered to fish any other fishery with pot gear.

(e) For the Chignik, Eastern Aleutians, Western Aleutians, and Bering Sea Districts, the registration deadlines for the registration year are as follows:

(1) for the Bering Sea District *C. opilio* Tanner crab fishery, the registration deadline is 5:00 p.m. September 24;

(2) for the Bering Sea District, *C. bairdi* Tanner crab fishery, the registration deadline is 5:00 p.m. September 24;

(3) repealed 8/14/2005;

(4) for the Eastern Aleutian District *C. bairdi* Tanner crab fishery, the registration deadline is 5:00 p.m. December 24;

(5) for the Western Aleutian District *C. bairdi* Tanner crab fishery, the registration deadline is 5:00 p.m. October 10;

(6) for the Chignik District *C. bairdi* Tanner crab fishery, if the guideline harvest level exceeds 600,000 pounds, the registration deadline is 5:00 p.m. December 24.

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(f) Before a vessel may be registered under this section, the vessel operator must obtain a CFEC interim-use permit for Tanner crab that references the vessel's ADF&G license number and file a registration form with the department, except that a vessel operator is not required to obtain a CFEC interim-use permit before filing a registration form for the Bering Sea Tanner or snow crab fisheries. The registration form must identify the vessel and vessel operator and must be received in person, or by mail or facsimile, at the department office in Dutch Harbor or Kodiak by the applicable deadline specified in (e) of this section.

(g) A vessel that is registered for the Tanner crab fishery in the Kodiak District may not be registered for the Tanner crab fishery in the Chignik or South Peninsula Districts during that registration year.

(h) The operator of a vessel registered to take Tanner crab in any district or section of Registration Area J must comply with any check-in and check-out procedures for sections specified by the department in an Area J registration certificate issued under 5 AAC 35.020.

(i) In the Bering Sea District, a vessel operator may harvest *C. bairdi* Tanner crab as follows:

(1) west of 166° W. long. in a directed *C. bairdi* Tanner crab fishery or as incidental harvest while the vessel operator is registered for the *C. opilio* Tanner crab fishery; a vessel operator that is registered to fish for *C. opilio* Tanner crab in the Bering Sea District may retain *C. bairdi* Tanner crab in an amount not to exceed five percent of the weight of the *C. opilio* Tanner crab on board the vessel and reported on an ADF&G fish ticket;

(2) east of 166° W. long. as incidental harvest while the vessel operator is registered for the Bristol Bay red king crab fishery; a vessel operator that is registered to fish for Bristol Bay red king crab may also retain *C. bairdi* Tanner crab in an amount not to exceed five percent of the weight of Bristol Bay red king crab on board the vessel and reported on an ADF&G fish ticket;

(3) in a directed *C. bairdi* Tanner crab fishery occurring between 163° W. long. and 166° W. long.;

(4) a vessel operator may not be concurrently registered to harvest *C. bairdi* Tanner crab in waters east and west of 166° W. long.

(j) In the Bering Sea District, a vessel operator that is registered to fish for *C. bairdi* Tanner crab west of 166° W. long. may also retain *C. opilio* Tanner crab in an amount not to exceed five percent of the weight of *C. bairdi* Tanner crab on board the vessel and reported on an ADF&G fish ticket.

(k) A Tanner crab vessel registration must be validated in person or by facsimile transmission, at an inspection point specified in 5 AAC 35.540, in the

(1) Chignik and South Peninsula Districts, not earlier than 24 hours before the scheduled opening date of the commercial Tanner crab season;

(2) Kodiak District, not earlier than 26 hours before the scheduled opening date of the commercial Tanner crab season.

Editor's note: The registration form specified in 5 AAC 35.506(e) and (f) may be sent by mail or facsimile to the department office in Dutch Harbor at Department of Fish and Game, P.O. Box 920587, Dutch Harbor, Alaska 99602-0587; Fax: (907) 581-1572; or the department office in Kodiak at Department of Fish and Game, Division of Commercial Fisheries, 351 Research Court, Kodiak, Alaska 99615-7400; Fax: (907) 486-1824.

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5 AAC 35.507. Kodiak, Chignik, and South Peninsula Districts *C. bairdi* Tanner crab harvest strategies. (a) In the Kodiak, Chignik, and South Peninsula Districts, a commercial *C. bairdi* Tanner crab fishery may open only if analysis of preseason survey data indicates that the subject population

(1) meets or exceeds the threshold level of mature male abundance specified in (b) of this section for the district or sections of a district, which is one-half the long-term average of mature male abundance; and

(2) in the Chignik District or a section of the South Peninsula District, is sufficient to provide a guideline harvest level of 200,000 pounds or more as calculated under (d) of this section; or

(3) in the Kodiak District, is sufficient to provide a guideline harvest level of 400,000 pounds or more as calculated under (d) of this section; or

(4) in a section of the Kodiak District, is sufficient to provide a guideline harvest level of 100,000 pounds or more as calculated under (d) of this section.

(b) The threshold levels of mature male abundance, in numbers of crab, for the following districts and sections of a district are:

(1) Kodiak District:

(A) Northeast Section	1,123,000
(B) Eastside Section	1,552,000
(C) Southeast Section	733,000
(D) Southwest Section	1,236,000
(E) Westside Section	764,000
(F) North Mainland Section	1,469,000

(2) Chignik District: 973,000

(3) South Peninsula District:

(A) Eastern Section	2,015,000
(B) Western Section	1,250,000

(c) In the Kodiak District,

(1) at least two sections of the Kodiak District must meet or exceed the threshold level requirements in (a) of this section before a fishery may be opened in the district;

(2) in the South Mainland Section, the fishery will open if at least two adjacent sections are open and will close when both of the adjacent sections are closed;

(3) in the Semidi Island Overlap Section,

(A) the fishery will open when either the Southwest Section of the Kodiak District or the Chignik District is opened;

(B) the owner, or the owner's agent, of a vessel must register with the department before fishing in the Semidi Island Overlap Section and may not be simultaneously registered to fish in other sections of the Kodiak District or the Chignik District;

(C) the pot limit is 70 pots per vessel;

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(D) a vessel operator must either provide daily reports via radio of the vessel's catch, catch location, and effort, or maintain logbooks that include the vessel's catch, catch locations, and effort; and

(E) the commissioner may close, by emergency order, the Semidi Island Overlap Section based on fishery performance.

(d) If the commercial *C. bairdi* Tanner crab fishery in the Chignik District, a section of the South Peninsula District, or a section of the Kodiak District is opened under (a) or (c) of this section and the threshold level of abundance

(1) is equal to or less than the long-term average of mature male abundance, the guideline harvest level will be no more than 10 percent of the molting mature male abundance and no more than 30 percent of the legal size male abundance;

(2) exceeds the long-term average of mature male abundance, the guideline harvest level will be no more than 20 percent of the molting mature male abundance and no more than 30 percent of the legal size male abundance.

(e) If the commercial fishery in any district or section of a district is not opened because it did not meet the threshold level requirements of (a) of this section, the fishery will reopen the following season only if an analysis of preseason survey data indicates that the population is sufficient to provide a guideline harvest level that is twice or more the poundage of the guideline harvest levels listed in (a)(2) – (4) for the district or section, and only half of the season's calculated guideline harvest level may be harvested. If any district or section remains closed for an additional season only because the increased guideline harvest level requirements of this subsection are not met, the fishery may open the following season if the threshold level requirements of (a) are met.

(f) In implementing this harvest strategy, the board directs the department to consider the reliability of the estimates of abundance of *C. bairdi* Tanner crab, the manageability of the fishery, and other factors deemed necessary to be consistent with sustained yield principles, and to use the best scientific information available.

(g) The long-term average of mature male abundance, in numbers of crab, for each of the following districts and sections of districts are

(1) Kodiak District:

(A) Northeast Section	2,246,000
(B) Eastside Section	3,104,000
(C) Southeast Section	1,466,000
(D) Southwest Section	2,472,000
(E) Westside Section	1,528,000
(F) North Mainland Section	2,938,000

(2) Chignik District: 1,946,000

(3) South Peninsula District:

(A) Eastern Section:	4,030,000
(B) Western Section:	2,500,000

(h) For the purposes of this section,

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(1) "long-term average of mature male abundance" means the long-term average of the estimated abundance of male *C. bairdi* Tanner crab greater than 114 millimeters in carapace width;

(2) "molting mature male abundance" means the estimated abundance of 100 percent of newshell, and 15 percent of oldshell *C. bairdi* Tanner crab that are more than 114 millimeters in carapace width.

5 AAC 35.508. Bering Sea District *C. bairdi* Tanner crab harvest strategy. (a) In the Bering Sea District, the commercial *C. bairdi* Tanner crab fishery may open only if an analysis of preseason survey data indicates that the population at the time of the survey is at or above 40 percent of the long-term average (1975 – 2010) of mature female crab biomass in the Eastern Subdistrict.

(b) If preseason survey data indicates that the population at the time of the survey is at or above 40 percent of the long-term average of mature female crab biomass in the Eastern Subdistrict for the second consecutive year, the department shall establish a separate total allowable catch level for that portion of the Bering Sea District that is east of 166° W. long. and for that portion that is west of 166° W. long. under the provisions of (c) and (d) of this section. If the commercial *C. bairdi* Tanner crab fishery in the Bering Sea District did not open in the previous season because the threshold requirements specified in (a) of this section were not met, the total allowable catch level for that portion of the Bering Sea District that is east of 166° W. long. and for that portion that is west of 166° W. long., as computed under (c) and (d) of this section, shall be reduced by one-half.

(c) In that portion of the Bering Sea District that is east of 166° W. long., and under the restrictions of (e) and (f) of this section, the total allowable catch level shall be established as follows:

(1) if BE is less than 25 percent of $BE_{(1975-2010)}$, the fishery will not open;

(2) if BE is at least 25 percent but not greater than 100 percent of $BE_{(1975-2010)}$, the total allowable catch will be computed as $(0.9) \times (BE/BE_{(1975-2010)}) \times CE_{MSY}$; and

(3) if BE is greater than 100 percent of $BE_{(1975-2010)}$, the total allowable catch will be computed as $(0.9) \times CE_{MSY}$.

(d) In that portion of the Bering Sea District that is west of 166° W. long., and under the restrictions of (e) and (f) of this section, the total allowable catch level will be established as follows:

(1) if BW is less than 25 percent of $BW_{(1975-2010)}$, the fishery will not open;

(2) if BW is at least 25 percent but not greater than 100 percent of $BW_{(1975-2010)}$, the total allowable catch will be computed as $(0.9) \times (BW/BW_{(1975-2010)}) \times CW_{MSY}$; and

(3) if BW is greater than 100 percent of $BW_{(1975-2010)}$, the total allowable catch will be computed as $(0.9) \times CW_{MSY}$.

(e) Notwithstanding (b) – (d) of this section, the total allowable catch for

(1) that portion of the Bering Sea District east of 166° W. long. may not exceed 50 percent of the estimated biomass of male *C. bairdi* Tanner crab, that are 140 millimeters (five and one-half inches) or greater in carapace width, including the lateral spines, discounted by fishery selectivity, that would survive in the absence of fishing mortality until the estimated mean time of mating; and

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(2) that portion of the Bering Sea District west of 166° W. long. may not exceed 50 percent of the estimated biomass of male *C. bairdi* Tanner crab that are 127 millimeters (five inches) or greater in carapace width, including the lateral spines, discounted by fishery selectivity, that would survive in the absence of fishing mortality until the estimated mean time of mating.

(f) Notwithstanding (b) – (e) of this section, in implementing this harvest strategy, the department shall consider the reliability of estimates of *C. bairdi* Tanner crab, the manageability of the fishery, and other factors the department determines necessary to be consistent with sustained yield principles and to use the best scientific information available and consider all sources of uncertainty as necessary to avoid overfishing.

(g) In this section,

(1) "BE" means the biomass of male *C. bairdi* Tanner crab in the portion of the Bering Sea District east of 166° W. long. that are more than 112 millimeters in carapace width estimated for the time of the preseason survey;

(2) "BE_(1975–2010)" means the mean value of the biomass of male *C. bairdi* Tanner crab in the portion of the Bering Sea District east of 166° W. long. that are more than 112 millimeters in carapace width annually estimated for the time of the preseason survey for the period 1975 – 2010;

(3) "Bw" means the biomass of male *C. bairdi* Tanner crab in the portion of the Bering Sea District west of 166° W. long. that are more than 102 millimeters in carapace width estimated for the time of the preseason survey;

(4) "Bw_(1975–2010)" means the mean value of the biomass of male *C. bairdi* Tanner crab in the portion of the Bering Sea District west of 166° W. long. that are more than 102 millimeters in carapace width annually estimated for the time of the preseason survey for the period 1975 – 2010;

(5) "CE_{FMSY}" means the catch biomass of male *C. bairdi* Tanner crab in the portion of the Bering Sea District east of 166° W. long. that are 140 millimeters (five and one-half inches) or greater in carapace width, including the lateral spines, resulting from fishing on the estimated mature male biomass at the estimated mean time of mating at the full-selection FMSY rate or a proxy for the FMSY rate;

(6) "Cw_{FMSY}" means the catch biomass of male *C. bairdi* Tanner crab in the portion of the Bering Sea District west of 166° W. long. that are 127 millimeters (five inches) or greater in carapace width, including the lateral spines, resulting from fishing on the estimated mature male biomass of *C. bairdi* Tanner crab at the estimated mean time of mating at the full-selection FMSY rate or a proxy for the FMSY rate;

(7) "mature female crab" means for

(A) that portion of the Bering Sea District that is east of 166° W. long., a female *C. bairdi* Tanner crab that is more than 84 millimeters in carapace width; and

(B) that portion of the Bering Sea District that is west of 166° W. long., a female *C. bairdi* Tanner crab that is more than 79 millimeters in carapace width.

5 AAC 35.509. Eastern Aleutian District Tanner crab harvest strategy. (a) In the Eastern Aleutian District, a commercial Tanner crab fishery may open only if analysis of preseason survey data indicates that the subject population meets or exceeds the threshold level of mature male abundance specified in (b) of this section, which is one-half the long-term

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average of mature male abundance, and the fishery is in a section of the Eastern Aleutian District that is sufficient to provide a guideline harvest level of 35,000 pounds or more as calculated under (d) of this section.

(b) The threshold levels of mature male abundance, in numbers of crab, for the following sections of the Eastern Aleutian District are

- | | |
|-----------------------------------|---------|
| (1) Akutan Section: | 200,000 |
| (2) Unalaska/Kalekta Bay Section: | 65,000 |
| (3) Makushin/Skan Bay Section: | 45,000 |

(c) In the Eastern Aleutian District, the

- (1) registration deadline is 5:00 p.m. December 24;
- (2) vessel operator must register with the department before fishing in any of the sections and may not be simultaneously registered to fish in more than one section at a time;
- (3) commissioner may close, by emergency order, any section based on fishery performance.

(d) If the commercial Tanner crab fishery in the Eastern Aleutian District is opened under (a) of this section and the threshold level of mature males abundance

(1) is equal to or less than the long-term average of mature male abundance, the guideline harvest level will be no more than 10 percent of the molting mature male abundance and no more than 30 percent of the legal size male abundance;

(2) exceeds the long-term average of mature male abundance, the guideline harvest level will be no more than 20 percent of the molting mature male abundance and no more than 30 percent of the legal size male abundance.

(e) In implementing the harvest strategy under this section, the board understands that the department will consider the reliability of the estimates of abundance of Tanner crab, the manageability of the fishery, and other factors deemed necessary to be consistent with sustained yield principles and to use the best scientific information necessary.

(f) Nothing in this section prohibits the department from opening a commercial fishery for Tanner crab in the General Section of the Eastern Aleutian District if preseason survey results indicate that a harvestable surplus of Tanner crab is available and the harvest rate would not exceed 20 percent of the molting mature male abundance or 30 percent of the legal male abundance.

(g) The long-term average of mature male abundance in numbers of crab for each of the following sections of the Eastern Aleutian District is

- | | |
|-----------------------------------|---------|
| (1) Akutan Section: | 400,000 |
| (2) Unalaska/Kalekta Bay Section: | 130,000 |
| (3) Makushin/Skan Bay Section: | 90,000 |

(h) For the purposes of this section,

(1) "long-term average of mature male abundance" means the long-term average of the estimated abundance of male Tanner crab greater than 114 millimeters in carapace width;

(2) "molting mature male abundance" means the estimated abundance of 100 percent of newshell, and 15 percent of oldshell Tanner crab that are more than 114 millimeters in carapace width.

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5 AAC 35.510. Fishing seasons for Registration Area J. (a) In the Kodiak District,

(1) pots may be operated to take Tanner crab only from 8:00 a.m. to 5:59 p.m., with a soak time of 14 hours from 6:00 p.m. to 7:59 a.m., from 12:00 noon January 15 until 12:00 noon March 31;

(2) the season opening shall be delayed for 24 hours if the January 14, 4:00 a.m. National Weather Service forecast for the current day and night or the following day and night for any section of the Kodiak District, except in the Semidi Island Overlap and Southwest Sections, contains a gale warning, in which case the season opening in all sections of the Kodiak District eligible for a season opening will be delayed 24 hours; if after the initial weather delay, the 4:00 a.m. National Weather Service forecast for the current day and night or the following day and night again contains a gale warning, the season opening in all sections will be delayed an additional 24 hours; the season opening delays may continue on a rolling 24-hour basis until 12:00 noon on January 25, when the season will open regardless of any gale warning in the National Weather Service forecasts; for the purposes of this paragraph, the corresponding National Weather Service forecast areas for the sections of the Kodiak District are as follows:

- (A) Northeast Section: 3B;
- (B) Eastside Section: 3B;
- (C) Southeast Section: 3B;
- (D) Westside Section: 3C;
- (E) North Mainland Section: 3C;

(3) based on the department's assessment of effort, manageability, and harvest rate, the commissioner may, by emergency order, increase the daily fishing period in the sections specified in this subsection, when the effort in the district declines and a substantial amount of the guideline harvest level remains to be taken.

(b) In the Chignik District,

(1) when the guideline harvest level is 200,000 pounds or more, pots may be operated to take Tanner crab only from 8:00 a.m. to 5:59 p.m., with a soak time of 14 hours from 6:00 p.m. to 7:59 a.m., from 12:00 noon January 15 through 12:00 noon March 31;

(2) the season opening shall be delayed for 24 hours if the January 14, 4:00 a.m. National Weather Service marine forecast for the current day and night or the following day and night contains a gale warning; if after the initial weather delay, the 4:00 a.m. National Weather Service marine forecast for the current day and night or the following day and night again contains a gale warning, the season opening will be delayed an additional 24 hours; the season opening delays may continue on a rolling 24-hour basis until 12:00 noon on January 25, when the season will open regardless of the National Weather Service marine forecasts; for the purposes of this paragraph, the corresponding National Weather Service marine forecast area for the Chignik District is Area 155: Coastal Waters South of the Alaska Peninsula Castle Cape to Cape Sarichef.

(c) In the South Peninsula District,

(1) when the guideline harvest level is 200,000 pounds or more, pots may be operated to take Tanner crab only from 8:00 a.m. to 5:59 p.m., with a soak time of 14 hours from 6:00 p.m. to 7:59 a.m., from 12:00 noon January 15 through 12:00 noon March 31;

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(2) the season opening shall be delayed for 24 hours if the January 14, 4:00 a.m. National Weather Service marine forecast for the current day and night or the following day and night contains a gale warning; if after the initial weather delay, the 4:00 a.m. National Weather Service marine forecast for the current day and night or the following day and night again contains a gale warning, the season opening will be delayed an additional 24 hours; the season opening delays may continue on a rolling 24-hour basis until 12:00 noon on January 25, when the season will open regardless of the National Weather Service marine forecasts; for the purposes of this paragraph, the corresponding National Weather Service marine forecast area for the South Peninsula District is Area 155: Coastal Waters South of the Alaska Peninsula Castle Cape to Cape Sarichef.

(d) In the Eastern Aleutian District, pots may be operated to take Tanner crab only from 8:00 a.m. to 5:59 p.m., with a soak time of 14 hours, from 6:00 p.m. to 7:59 a.m., from 12:00 noon January 15 until 12:00 noon March 31, unless closed earlier by emergency order.

(e) In the Western Aleutian District, pots may be operated to take Tanner crab only during a season opened by emergency order from 12:00 noon November 1 through 12:00 noon March 31.

(f) In the Bering Sea District, Tanner crab fishing seasons are as follows:

(1) male *C. bairdi* Tanner crab may be taken from 12:00 noon October 15 until 11:59 p.m. March 31;

(2) in waters west of 166° W. long., male *C. opilio* Tanner crab may be taken from

(A) 12:00 noon October 15 through 11:59 p.m. May 15 in the Eastern Subdistrict;
and

(B) 12:00 noon October 15 through 11:59 p.m. May 31 in the Western Subdistrict;

(3) male hybrid Tanner crab may be taken during the open seasons specified in (1) and (2) of this subsection, under the identification criteria specified in 5 AAC 35.521(c);

(4) Tanner crab may not be taken or possessed in the Norton Sound Section of the Eastern Subdistrict.

(g) For the purposes of this section, "soak time" means the period of time that Tanner crab pot gear is submerged in the water in fishing condition and not being operated.

5 AAC 35.511. Permits for *tanneri* and *angulatus* Tanner crab in Registration Area J. (a) Male Tanner crab of the species *Chionoecetes tanneri* and *Chionoecetes angulatus* may be taken in Registration Area J only under the conditions of a permit issued by the commissioner.

(b) *C. tanneri* and *C. angulatus* Tanner crab may be taken only with pots as follows:

(1) in the Kodiak, Chignik, and South Peninsula Districts of Area J,

(A) pots may be longlined;

(B) no more than 150 large pots or 300 small pots may be operated from a vessel, except that in the Kodiak District no more than 75 large pots or 150 small pots may be operated from a vessel;

(C) for purposes of this paragraph, a small pot is a pot that is no more than 20 feet in perimeter and no more than 42 inches high, and a large pot is a pot that is more than 20 feet in perimeter and no more than 42 inches high;

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(2) in that portion of Registration Area J not described in (1) of this subsection, pots may be longlined only in areas where the longlining of pots is permitted for golden king crab.

(c) Fishing operations are restricted to waters 200 fathoms or greater in depth, unless the fishery for golden king crab in that location is closed and an alternate depth is specified in the permit.

(d) The permit required in (a) of this section

(1) may, notwithstanding (c) of this section, restrict the depth of fishing operations;

(2) may specify season dates; the season may be closed during periods before and after other shellfish fisheries;

(3) may specify areas of fishing operations by registration area or by district;

(4) may establish minimum legal size limits;

(5) may require an onboard observer during all operations;

(6) may require a logbook report of operations; and

(7) may, notwithstanding (b) of this section, specify the type, size, and configuration of pots; pots must include an escape mechanism designed to allow female and undersize male crab to exit the pot during fishing operations.

(e) Participation in superexclusive Tanner crab fisheries does not exclude a vessel or permit holder from participation in this permit fishery in any area during periods when other Tanner crab fisheries in that area are closed.

(f) Except as provided in (b) of this section, the pot limits specified in the registration areas described in 5 AAC 35 for Tanner crab do not apply to *Chionoecetes tanneri* and *Chionoecetes angulatus* Tanner crab.

5 AAC 35.517. Bering Sea C. opilio Tanner crab harvest strategy. (a) In the Bering Sea District, the commercial *C. opilio* Tanner crab fishery may open only if the department's analysis of preseason survey data indicates the population of *C. opilio* Tanner crab

(1) contains an estimated spawning biomass of at least 25 percent of B_{msy} ;

(2) repealed 6/10/2010.

(b) If the estimated spawning biomass of *C. opilio* Tanner crab is

(1) at least 25 percent of B_{msy} , but less than B_{msy} , the total allowable catch will be $(F_{msy}/3 + (B_t - 0.25 \times B_{msy}) \times 0.417 \times F_{msy} / (0.75 \times B_{msy})) \times 100$ percent of the estimated mature male biomass or 58 percent of exploited legal males, whichever is less;

(2) at or above B_{msy} , the total allowable catch will be $(0.75 \times F_{msy}) \times 100$ percent of the estimated mature male biomass or 58 percent of the exploited legal males, whichever is less.

(c) In implementing this harvest strategy, the board directs the department to use the best scientific information available and to consider the reliability of estimates of *C. opilio* Tanner crab, the manageability of the fishery, and any other factors it determines necessary to be consistent with the sustained yield principles.

(d) For the purposes of this section,

(1) " B_{msy} " means the population biomass of mature male and female *C. opilio* Tanner

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crab that could produce maximum sustained yield under prevailing environmental conditions;

(2) "B_t" means the biomass of mature male and female *C. opilio* Tanner crab in a given year;

(3) "estimated mature male biomass" means the estimated biomass of all morphometrically mature male *C. opilio* Tanner crab;

(4) "estimated spawning biomass" means the estimated biomass of all morphometrically mature male *C. opilio* Tanner crab and all morphometrically mature female *C. opilio* Tanner crab;

(5) "exploited legal males" means 100 percent of the new-shell male *C. opilio* Tanner crab that are at least 102 millimeters (four inches) in width of shell, plus a percentage of old-shell male *C. opilio* Tanner crab that are at least 102 millimeters in width of shell estimated at the time of the survey; the percentage of old-shell male *C. opilio* Tanner crab will be based on the expected fishery selectivity for old-shell versus new-shell male *C. opilio* Tanner crab;

(6) "F_{msy}" means the fishing mortality of the mature male *C. opilio* Tanner crab stock that could produce maximum sustained yield under prevailing environmental conditions.

5 AAC 35.520. Size limits for Registration Area J. (a) Only male Tanner crab of the species *Chionoecetes opilio* 3.1 inches or greater in width of shell may be taken or possessed.

(b) In the Bering Sea District, Tanner crab size limits are as follows:

(1) male *C. bairdi* Tanner crab, or hybrid Tanner crab conforming to the identification criteria described in 5 AAC 35.521(a), must be 4.8 inches or greater in width of shell, except that in the waters west of 166° W. long., male *C. bairdi* Tanner crab, or hybrid Tanner crab conforming to the identification criteria described in 5 AAC 35.521(a), must be 4.4 inches or greater in width of shell;

(2) male *C. opilio* Tanner crab, or hybrid Tanner crab conforming to the identification criteria described at 5 AAC 35.521(b), must be 3.1 inches or greater in width of shell.

5 AAC 35.521. Identification of Bering Sea Tanner crab. (a) In the Bering Sea District, a Tanner crab with both eyes completely red in color and the margin of the upper lip (labrum) notched at two points with angular V-shaped cuts forming an "M" shape is considered to be a *C. bairdi* Tanner crab.

(b) In the Bering Sea District, a Tanner crab that does not display the characteristics described in (a) of this section is considered to be a *C. opilio* Tanner crab.

(c) For the purpose of 5 AAC 35.510(f)(3) and 5 AAC 35.520(b), a hybrid Tanner crab that conforms to the description in (a) of this section is considered to be a *C. bairdi* Tanner crab, and a hybrid Tanner crab that does not conform to that description is considered to be a *C. opilio* Tanner crab.

(d) For the purpose of this section, "red" means a primary color similar in hue to blood.

5 AAC 35.525. Lawful gear for Registration Area J. (a) Tanner crab may be taken only with Tanner crab pots. Tanner crab taken by other means must be returned to the water without further harm.

(b) The following Tanner crab pot requirements are in effect in Registration Area J:

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(1) to permit the escapement of undersize *C. bairdi* Tanner crab, pots used to take *C. bairdi* Tanner crab must have at least one-third of one vertical surface of the pot composed of not less than six and one-half inch stretched mesh webbing or have no less than four circular escape rings of no less than four and one-half inches inside diameter installed in a manner on the vertical surface of the pot so that the bottom of a ring is no higher on the vertical surface than the first full mesh from the bottom of the pot; and

(2) to permit the escapement of undersize *C. opilio* Tanner crab, pots used to take *C. opilio* Tanner crab must have at least eight escape rings with an inside diameter measure of no less than four inches installed in a manner on the vertical surface of the pot so that the bottom of a ring is no higher on the vertical surface than the first full mesh from the bottom of the pot, with four escape rings on each of two sides of a four-sided pot, or if the pot has no escape rings as specified in this paragraph, one-half of one side of a four-sided pot must have a side panel composed of not less than five and one-quarter inch stretched mesh webbing.

(c) The following pot limits are in effect in Registration Area J:

(1) in the Kodiak District, when the guideline harvest level for *C. bairdi* Tanner crab is

(A) less than 2,000,000 pounds, an aggregate of no more than 20 pots may be operated from a validly registered Tanner crab vessel;

(B) at least 2,000,000 pounds but less than 4,000,000 pounds, an aggregate of no more than 30 pots may be operated from a validly registered Tanner crab vessel;

(C) at least 4,000,000 pounds but less than 5,000,000 pounds, an aggregate of no more than 40 pots may be operated from a validly registered Tanner crab vessel;

(D) at least 5,000,000 pounds, an aggregate of no more than 60 pots may be operated from a validly registered Tanner crab vessel;

(2) in the Chignik District, an aggregate of no more than 30 pots may operated from a validly registered Tanner crab vessel, except that if the guideline harvest level exceeds 2,000,000 pounds,

(A) the total number of pots allowed in the fishery is 1,000; and

(B) the department will establish the individual vessel pot limit, not to exceed 50 pots per vessel, by dividing the 1,000 total pot limit by the number of vessels that register by the registration deadline specified in 5 AAC 35.506(e)(6);

(3) in the South Peninsula District, if the

(A) guideline harvest level is 2,000,000 pounds or less, an aggregate of no more than 30 pots may be operated from a validly registered Tanner crab vessel;

(B) guideline harvest level is more than 2,000,000 pounds, an aggregate of no more than 50 pots may be operated from a validly registered Tanner crab vessel;

(4) repealed 9/12/2008;

(5) in the Eastern Aleutian District, the total number of pots allowed in the fishery is 300; the department will establish the individual vessel pot limit by dividing the 300 total pot limit by the number of vessels that register before the season opens; no more than 50 pots per vessel will be allowed.

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(d) In the Bering Sea District, the tunnel eye openings on the vertical side of a Tanner crab pot may be no more than three inches high, except that up to 20 groundfish pots, as defined in 5 AAC 28.050(e), may be on board the vessel that is registered for either the Bering Sea Tanner crab or Bering Sea snow crab fisheries. Tanner and snow crab taken from these groundfish pots may be retained.

(e) In Registration Area J, a validly registered Tanner crab vessel may not have at any time in the aggregate, more than the legal limit of gear on board the vessel, in the water in fishing condition, and in the water in nonfishing condition. At the time of the tank inspection required under 5 AAC 35.555, the gear must meet all specifications required by this chapter and 5 AAC 39, including identification, escape mechanisms, and mesh size requirements.

(f) For the purposes of this section, "overall length" means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments.

5 AAC 35.526. Tanner crab pot marking requirements for Registration Area J. (a) In addition to the requirements of 5 AAC 35.051, in Registration Area J, in locations where a Tanner crab pot limit is in effect, each Tanner crab pot must have one identification tag issued by the department placed on the main buoy or on the trailer buoy if more than one buoy is attached to the pot.

(b) Identification tags are issued before each fishing season, are uniquely numbered for each registration year, and will be issued at the time of vessel registration for that vessel only. The vessel owner, or the owner's agent, shall apply for identification tags at a department office designated to issue the tags. Replacement of tags lost during the season is permitted if the vessel operator submits a sworn statement or affidavit to the department office that issued the tags, describing how the tags were lost and listing the numbers of the lost tags. Replacement tags will only be available from the Kodiak and Dutch Harbor local department offices. Tags shall be renewed annually before each fishing season.

(c) Repealed 9/12/2008.

5 AAC 35.527. Tanner crab pot storage requirements for Registration Area J. The Tanner crab pot storage requirements in 5 AAC 35.052(a)(2) apply, except in the

(1) Western Aleutian District, pots may be stored in waters of not more than 30 fathoms deep from January 1 through December 31;

(2) Eastern Aleutian District, pots may be stored in waters of not more than 25 fathoms deep only from 30 days before the scheduled opening date of the commercial Tanner crab season through seven days after the closure of the commercial Tanner crab season, except that pots may not be stored in the waters of

(A) Hot Springs Bay inside of a line from the tip of Ridge Point to 54° 12.67' N. lat., 165° 52' W. long.; or

(B) Kalekta Bay inside of a line from the tip of Erskine Point to the tip of Cape Kalekta;

(3) South Peninsula and Chignik Districts, pots may be stored in the water only from the scheduled opening date of the commercial red and blue king crab season until seven days after the closure of the commercial Tanner crab season;

(4) Bering Sea District, pots may be stored in

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(A) repealed 8/14/2005;

(B) the waters of the Eastern Subdistrict north of 57° N. lat., south of 58° N. lat., east of 166° W. long., and west of 164° W. long., from January 1 through December 31;

(C) repealed 8/14/2005;

(D) the waters around the Pribilof Islands shoreward of the 25-fathom isobath only from September 1 through May 31, and pots may also be stored in the waters around the Pribilof Islands at any depth within five nautical miles from the shoreline of St. Paul or St. George Islands, or in waters that are not more than 35 fathoms deep for 14 days before the scheduled opening date, and for 14 days after the closure, of the commercial *C. opilio* season;

(5) Kodiak District, cone or pyramid pots with all bait and bait containers removed and all doors not secured closed may be stored in the water only from 30 days before the scheduled opening date of the commercial Tanner crab season until 30 days after the closure of that season;

(6) Kodiak, Chignik, and South Peninsula Districts, or a section of those districts, if the commissioner, by emergency order, closes the commercial Tanner crab fishing season with less than six-hours notice in a daily period, except when the closure is announced preseason, baited pot gear may be stored in waters deeper than 25 fathoms for up to three days following the closure.

5 AAC 35.528. Operation of other gear in Registration Area J. In the Kodiak District, a person or vessel that participated in the commercial Tanner crab fishery may participate in the subsistence Tanner crab fishery in a section of the Kodiak District that is closed to commercial Tanner crab fishing after the person is no longer participating in the commercial fishery and the vessel operator has invalidated the vessel's commercial Tanner crab registration, and after the section of the Kodiak District has been closed to commercial fishing for at least 14 days.

5 AAC 35.535. Closed waters in Registration Area J. The waters of Alaska surrounding St. Matthew Island, Hall Island, and Pinnacle Island are closed to the taking of Tanner crab.

5 AAC 35.540. Registration Area J inspection points. Registration Area J inspection points are located at Kodiak and Dutch Harbor or at other locations specified by the department.

5 AAC 35.555. Inspection requirements for Registration Area J. (a) Except in the Kodiak, Chignik, and South Peninsula Districts, during the 24 hours before the scheduled opening date of the commercial Tanner crab season in Registration Area J, or a portion of Registration Area J, or at any time during the open season before taking crab, a Tanner crab vessel registered for Registration Area J must have all holds, live tanks, and freezers inspected by a local representative of the department at an inspection point specified in 5 AAC 35.540. Tanner crab may not be on board the vessel at the time of inspection. The requirements of this section do not apply to a registered Tanner crab vessel that does not have a saltwater circulation system in its holds or live tanks. In the Bering Sea District only, the requirements of this section do not apply to catcher-processor vessels, if the commercial *C. bairdi* Tanner crab season remains open through the opening of the commercial *C. opilio* Tanner crab season.

(b) Notwithstanding (a) of this section, for the Bering Sea District commercial *Chionoecetes opilio* fishery, a registered Tanner crab vessel may have its holds, live tanks, and freezers inspected by a local representative of the department at Dutch Harbor, Akutan,

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or King Cove within 48 hours before taking or processing Tanner crab.

5 AAC 35.556. Landing requirements for Registration Area J. (a) Except as provided in (b) of this section, the landing provisions of 5 AAC 35.031 apply to all districts within Registration Area J.

(b) The landing provisions of 5 AAC 35.031(c)(2) do not apply to the Bering Sea, Western Aleutian, and Eastern Aleutian Districts of Area J.

(c) Notwithstanding 5 AAC 35.031(c), following the closure of Registration Area J, or a portion of Registration Area J, to the taking of a specified species of Tanner crab, a vessel validly registered for that area may not have that species of Tanner crab on board the vessel in waters subject to the jurisdiction of the state, if delivery is made

(1) in the district or subdistrict that the Tanner crab were taken, or to a floating processor at St. Matthew or the Pribilof Islands if the Tanner crab were taken in the Western Subdistrict of the Bering Sea, after 24 hours following the closure;

(2) to Dutch Harbor, Akutan, or King Cove from the

(A) Eastern Aleutian District, after 24 hours following the closure;

(B) Western Aleutian District, after 72 hours following the closure, except that the owner, or the owner's agent, of a vessel delivering to King Cove may request additional time to deliver Tanner crab using the procedure specified in (3) of this subsection;

(C) Eastern Subdistrict of the Bering Sea District, after 24 hours following the closure, except that a owner, or the owner's agent, of a vessel delivering to King Cove may request additional time to deliver Tanner crab using the procedure specified in (3) of this subsection;

(D) Western Subdistrict of the Bering Sea District, after 72 hours following the closure;

(3) to Adak or a location east of King Cove, or if the vessel owner, or the owner's agent, wishes to request additional time to deliver Tanner crab under (c)(2)(B) or (c)(2)(C) of this section,

(A) the vessel owner, or the owner's agent, shall contact, by radio or telephone, a representative of the department in Dutch Harbor within 24 hours after the closure;

(B) the representative of the department in Dutch Harbor shall grant a reasonable amount of additional time for the vessel to reach the port of delivery; the amount of additional time shall be determined under the assumption that the vessel departed the fishing grounds immediately after the closure and proceeded directly to the processing location, except that a vessel may stop en route and offload pots at a storage facility if the vessel operator first contacts a representative of the department in Dutch Harbor and provides information on the location of the storage facility, the expected time of gear placement at that facility, and the expected time the vessel will depart the storage facility en route to the port of delivery.

(d) In the Kodiak, Chignik, and South Peninsula Districts, or a section of those districts, when the Tanner crab fishery is closed and gear has been stored as specified in 5 AAC 35.527(6), a vessel with Tanner crab on board may not be used for any purpose, except to travel to the port of delivery to offload the Tanner crab. The vessel operator may not pull any gear, baited or stored, or place any gear in storage. Once the Tanner crab on board the vessel has been off-loaded to the port of delivery, the vessel operator shall immediately

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remove any pot gear remaining on the fishing grounds and return any crab caught to the water without further harm. All pot gear must be placed in storage or on board the vessel within three days following the closure of a section or district.

5 AAC 35.558. Reporting requirements for Registration Area J. In the Eastern Aleutian District, a validly registered Tanner crab vessel must report each day to the department

- (1) the number of pot lifts;
 - (2) the number of crab retained for the 24-hour fishing period preceding the report;
- and
- (3) any other information that the commissioner determines is necessary for the management and conservation of the fishery, as specified in the vessel registration certificate issued under 5 AAC 35.020.

5 AAC 35.590. Vessel length restrictions. (a) In the Eastern Aleutian District, in the waters of Unalaska Bay enclosed by a line from Cape Cheerful (54° N. lat., 166° 40.33' W. long.) to Priest Rock (54° N. lat., 166° 22.50' W. long.), Tanner crab may not be taken by vessels over 50 feet, United States Coast Guard registered length or 58 feet overall length. In the remainder of the Eastern Aleutian District, Tanner crab may not be taken by vessels over 58 feet in overall length when the guideline harvest level for Tanner crab in the Eastern Aleutian District is 1,000,000 pounds or less.

(b) Tanner crab may not be taken in the Chignik and South Peninsula Districts by vessels over 58 feet in overall length.

(c) In this section, "overall length" means the straight line length between the extremities of the vessel, excluding anchor rollers.

GENERAL PROVISIONS

CHAPTER 39. GENERAL PROVISIONS.

Article 1. General.

5 AAC 39.001. Application of this chapter. Unless otherwise specified in this section or 5 AAC 01 – 5 AAC 77, requirements in this chapter apply to commercial fishing only, except that 5 AAC 39.002 and 5 AAC 39.999 applies to all of 5 AAC 01 – 5 AAC 77. Subsistence, personal use, and sport fishing regulations affecting commercial fishing vessels or affecting any other commercial fishing activity are set out in the subsistence fishing regulations in 5 AAC 01 and 5 AAC 02, personal use regulations in 5 AAC 77, and sport fishing regulations in 5 AAC 47 – 5 AAC 75.

5 AAC 39.002. Liability for violations. Unless otherwise provided in 5 AAC 01 – 5 AAC 41 or in AS 16, a person who violates a provision of 5 AAC 01 – 5 AAC 41 is strictly liable for the offense, regardless of his intent.

5 AAC 39.010. Retention of fish taken in a commercial fishery. (a) A person engaged in commercial fishing may retain finfish from lawfully taken commercial catch for that person's own use, including for the use as bait in a commercial fishery. Finfish retained under this section may not be sold or bartered.

(b) Except as otherwise specified in 5 AAC 01 – 5 AAC 39, a commercial fisherman shall report on an ADF&G fish ticket, at the time of delivery of the commercial catch, the number of steelhead retained from the commercial catch but not sold. For the purposes of this subsection, "delivery" means the offloading of the finfish for sale or for transport to a buyer for later sale.

5 AAC 39.105. Types of legal gear. (a) All gear shall be operated in a manner conforming to its basic design.

(b) The size of meshes of a gillnet shall be substantially consistent.

(c) All references to mesh size in the regulations are considered to be "stretched measure."

(d) Unless otherwise provided in this title, the following are legal types of gear:

(1) a **gillnet** is a net primarily designed to catch fish by entanglement in the mesh and consisting of a single sheet of webbing hung between cork line and lead line, and fished from the surface of the water;

(2) a **set gillnet** is a gillnet that has been intentionally set, staked, anchored, or otherwise fixed;

(3) a **drift gillnet** is a drifting gillnet that has not been intentionally staked, anchored, or otherwise fixed;

(4) a **purse seine** is a floating net designed to surround fish and which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line;

(5) a **hand purse seine** is a floating net designed to surround fish and which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line through one or more rings attached to the lead line is not allowed;

(6) a **beach seine** is a floating net designed to surround fish which is set from and hauled to the beach;

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(7) **power troll gear** consists of a line or lines with lures or baited hooks which are deployed, drawn through the water, and retrieved by means of a power troll gurdy, for which the power source may be hydraulic, electrical, or mechanical; power troll gear does not include hand troll gear;

(8) **hand troll gear** consists of a line or lines with lures or baited hooks which are drawn through the water from a vessel by hand trolling, strip fishing or other types of trolling, and which are retrieved by hand power or hand-powered crank and not by any type of electrical, hydraulic, mechanical or other assisting device or attachment;

(9) a **fish wheel** is a fixed, rotating device, with no more than four baskets on a single axle, for catching fish which is driven by river current or other means;

(10) a **trawl** is a bag-shaped net towed through the water to capture fish or shellfish;

(A) a **beam trawl** is a trawl with a fixed net opening utilizing a wood or metal beam;

(B) an **otter trawl** is a trawl with a net opening controlled by devices commonly called otter doors;

(C) a **pelagic trawl** is a trawl where the net, or the trawl doors or other trawl-spreading device, do not operate in contact with the seabed, and which does not have attached to it any protective device, such as chafing gear, rollers, or bobbins, that would make it suitable for fishing in contact with the seabed;

(11) a **pot** is a portable structure designed and constructed to capture and retain fish and shellfish alive in the water;

(12) a **ring net** is a bag-shaped net suspended between no more than two frames; the bottom frame may not be larger in perimeter than the top frame; the gear must be nonrigid and collapsible so that when fishing it does not prohibit free movement of fish or shellfish across the top of the net;

(13) a **longline** is a stationary buoyed or anchored line or a floating, free drifting line with lures or baited hooks attached;

(14) a **shovel** is a hand-operated implement for digging clams or cockles;

(15) a **mechanical clam digger** is a mechanical device used or capable of being used for the taking of clams;

(16) a **scallop dredge** is a dredge-like device designed specifically for and capable of taking scallops by being towed along the ocean floor;

(17) a **fyke net** is a fixed, funneling (fyke) device used to entrap fish;

(18) a **lead** is a length of net employed for guiding fish into a seine or set gillnet;

(19) an **anchor** is a device used to hold a salmon fishing vessel or net in a fixed position relative to the beach; this includes using part of the seine or lead, a ship's anchor or being secured to another vessel or net that is anchored;

(20) a **herring pound** is an enclosure used primarily to retain herring alive over extended periods of time;

(21) **diving gear** is any type of hard hat or skin diving equipment, including scuba, a tethered, umbilical, surface-supplied system, and a snorkel;

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(22) a **hydraulic clam digger** is a device using water or a combination of air and water to remove clams from their environment;

(23) a **grappling hook** is a hooked device with flukes or claws and attached to a line and operated by hand;

(24) a **dip net** is a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed five feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand;

(25) a **mechanical jigging machine** is a device that deploys a line with lures or baited hooks and retrieves that line with electrical, hydraulic, or mechanically powered assistance; a mechanical jigging machine allows the line to be fished only in the water column; a mechanical jigging machine must be attached to a vessel registered to fish with a mechanical jigging machine; the mechanical jigging machine may not be anchored or operated unattached from the vessel;

(26) an **abalone iron** is a flat device used for taking abalone and which is more than one inch (24 mm) in width and less than 24 inches (61 cm) in length and with all prying edges rounded and smooth;

(27) a **handline** is a hand-held line, with one or more hooks attached, which may only be operated manually; a handline is legal gear only for smelt in the Bristol Bay Area, described in 5 AAC 06.100;

(28) **dinglebar troll gear** consists of one or more lines, retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while the vessel is making way;

(29) a **sea urchin rake** is a hand-held implement, no longer than four feet, equipped with projecting prongs used to gather sea urchins;

(30) a **cast net** is a circular net with a mesh size of no more than one and one-half inches and weights attached to the perimeter which, when thrown, surrounds the fish and closes at the bottom when retrieved.

5 AAC 39.109. Nonresident crewmember fishing license fees. The amount to be added, in accordance with AS 16.05.480(h), to the annual base fee for a nonresident crewmember fishing license is the additional amount calculated every three years by the Commercial Fisheries Entry Commission under 20 AAC 05.245(a)(7).

5 AAC 39.110. Crewmember fishing license requirements. (a) Each commercial fisherman who does not hold a valid interim-use or entry permit card issued by the Commercial Fisheries Entry Commission shall obtain a crewmember fishing license before fishing in any waters of Alaska. A crewmember fishing license is not required for the holder of a valid interim-use or entry permit card.

(b) Repealed 8/15/2008.

(c) A crewmember licensee who does not hold a valid CFEC permit may crew in any fishery if he or she is working for the holder of a valid CFEC permit for that fishery who is operating the fishing gear in the manner described in 5 AAC 39.107.

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(d) A valid interim-use or entry permit card holder may crew in any fishery.

(e) In this section, "crew" means the activities of a commercial fisherman as defined in AS 16.05.940(4), who is actively engaged in the operation of fishing gear that is being operated in the manner described in 5 AAC 39.107.

(f) Each holder of a commercial fishing license, as required in AS 16.05.480(a), who is 16 years or age or older and participating in a commercial fishery in which crewmember participation is restricted by exclusive or superexclusive area registration requirements shall possess an identification card that has been issued to the commercial fishing license holder by a state or federal agency or other organization specified by the Department of Public Safety that bears a photograph of the commercial fishing license holder.

(g) The department will issue a duplicate crewmember license to a person whose crewmember license has been lost or destroyed and who submits a request for a duplicate crewmember license on a form prescribed by the department along with a \$5 duplicate crewmember license fee.

5 AAC 39.111. Personal identification required. A person who is in possession of a CFEC interim-use or entry permit card shall, upon the request of a buyer of fish or a peace officer of the state, present the personal identification required under AS 16.10.267(a)(2) to establish that the permit card is in the possession of the person to whom the permit card is issued.

5 AAC 39.117. Vessel length; bulbous bow. (a) Notwithstanding any other provision in 5 AAC 01 – 5 AAC 39, the addition of a bulbous bow may cause a vessel, other than a vessel engaged in the Bering Sea hair crab fishery, to exceed an established vessel overall length limitation. Only that portion of the vessel comprising the bulbous bow may cause the vessel to exceed a vessel overall length limitation.

(b) For the purposes of this section, "bulbous bow" means a bulbous extension of the bow, below or predominately below the water line of a vessel, that is designed to increase stability or fuel efficiency and does not contain storage space or equipment that can be accessed from within the vessel.

5 AAC 39.119. Vessel identification. (a) Unless otherwise specified, a commercial fishing vessel required to be licensed under AS 16.05.490 must display its permanent vessel license plate number

(1) in permanent symbols at least 12 inches high and with lines at least one inch wide that contrast with the background;

(2) on both sides of the hull, cabin, or mast;

(3) in a manner such as to be plainly visible and unobscured; and

(4) at all times when registered to fish.

(b) Repealed 10/1/98.

(c) The following vessels are exempt from the requirements of this section:

(1) those exempt from licensing under AS 16.05.495;

(2) seine skiffs operating with a seine vessel.

5 AAC 39.120. Registration of commercial fishing vessels. (a) A person who owns a commercial fishing vessel or that person's authorized agent shall register that vessel by completing a vessel license application or renewal form and submitting it to the Commercial Fisheries Entry Commission, unless the vessel is not required to be licensed under

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AS 16.05.495. Vessel registration is required before fishing or transporting unprocessed fish in any waters of Alaska. A vessel, if it is in compliance with all regulations governing registration and if it displays a license issued under AS 16.05.530, unless the vessel is not required to be licensed under AS 16.05.495, is considered to be registered under the laws of the state and may take or transport unprocessed fish. It is unlawful to take, attempt to take or possess unprocessed fish aboard a vessel in the waters of Alaska unless the vessel is registered under the laws of the state. For purposes of this subsection

(1) "employ", as used in AS 16.05.475, means taking or attempting to take fish, or transporting fish which have been taken or any operation of a vessel aiding or assisting in the taking or transporting of unprocessed fish;

(2) "in compliance with all regulations governing registration" includes vessel registration required by 5 AAC 28.020, 5 AAC 31.020, 5 AAC 31.030, 5 AAC 32.020, 5 AAC 32.030, 5 AAC 34.020, 5 AAC 34.030, 5 AAC 35.020, 5 AAC 35.030, 5 AAC 38.020 and 5 AAC 38.030, and includes district or subdistrict registration requirements of 5 AAC 03 – 5 AAC 38, and includes the provisions of this section;

(3) "registered under the laws of the state" means that a vessel displays a license described in 20 AAC 05.1958 and issued under AS 16.05.530, unless the vessel is not required to be licensed under AS 16.05.495, and that the registration provisions of 5 AAC 03 – 5 AAC 39 have been complied with and evidence of compliance is immediately available at all times during fishing or transporting operations, and can be shown upon request to an authorized representative of the department.

(b) Area registration requirements for shellfish vessels are as specified in the registration regulations in 5 AAC 31 – 5 AAC 38.

(c) – (d) (Not applicable to shellfish)

(e) Evidence of proper registration or licensing must be kept immediately available at all times during fishing operations and must be shown upon request to any peace officer of the state.

(f) The provisions of this section do not apply to halibut fishing.

5 AAC 39.123. Late registration. (a) To qualify for an extension of a registration or permit deadline set out in 5 AAC 01 – 5 AAC 39, a person must show that the person had demonstrated an intent to harvest fish before the deadline. An "intent to harvest fish" may be demonstrated by

(1) renewing or applying for, before the deadline, a CFEC permit which is effective in the fishery and area for which extension is being requested;

(2) participation during the previous season in the fishery in the requested area, unless entry into the fishery is limited and the person did not own a permit for that season;

(3) purchasing or showing intent to purchase a vessel, permit, or fishing gear for the fishery before the deadline;

(4) showing intent to start, starting, or completion of vessel or gear repair or maintenance for the fishery before the deadline; or

(5) any other written documentation, such as loan applications, agreements with fish buyers, license applications, or other writings, which indicate the necessary intent to participate in the fishery before the deadline.

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(b) In addition to (a) of this section, a person must demonstrate that failure to apply before the deadline was a result of excusable neglect. "Excusable neglect" may be demonstrated by

(1) loss of registration or permit form in the mail, or other documentation which may demonstrate excusable carelessness or inattention on the part of authorized agents or other third parties;

(2) receipt of incorrect information from a department official, which is substantiated by the appropriate official;

(3) illness or injury of the individual or a member of his family that was serious enough to prevent him from meeting the deadline;

(4) required government or military service; or

(5) written documentation that will substantiate other unavoidable circumstances that prevented meeting the deadline.

5 AAC 39.130. Reports required of fishermen, processors, buyers, exporters, and operators of certain commercial fishing vessels; transporting requirements. (a) An individual, company, firm, or other organization that is the first purchaser of raw fish, catches and processes fish or byproducts of fish, catches and has fish or byproducts of fish processed by another person or company, or catches and exports fish or byproducts of fish shall

(1) furnish to the department each calendar year before operating, a completed Intent to Operate Application on a form, provided by the department; a individual, company, firm, or other organization described in this subsection may begin to operate only after receiving a written authorization from the

(A) department to begin operating, along with the individual's or organization's code plate number for the current year or code plate and fish tickets for the current year; or

(B) National Marine Fisheries Service to begin operating an eLandings operation;

(2) furnish, verbally or in writing, purchasing or production records as requested by the commissioner or the commissioner's designee;

(3) submit, on a form provided by the department, no later than April 1, a

(A) Commercial Operator's Annual Report (COAR), which is an operator's accurate and complete summary of activity for each Intent to Operate Application form filed for the previous year; or

(B) signed statement of nonactivity for the previous year.

(b) A catcher-seller must complete a registration form provided by the department each calendar year and may begin to operate only after receiving a written authorization from the

(1) department to begin operating, along with the catcher-seller's code plate number for the current year or code plate and fish tickets for the current year; or

(2) National Marine Fisheries Service to begin operating an eLandings operation.

(c) The first purchaser of raw fish, a catcher-seller, or an individual or company that catches and processes or exports that individual's or company's own catch or has that catch processed or received by another individual or company shall record each delivery on an

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ADF&G fish ticket. The operator of a fishing vessel that harvests or off-loads fish in the waters of Alaska must complete an ADF&G fish ticket. Fish tickets must be submitted to a local representative of the department within seven days after delivery or final delivery if multiple deliveries are made, or as otherwise specified by the department for each particular area and fishery. The operator of a fishing vessel that has fished in the waters of Alaska whose port of delivery is outside this state, or who sells, transfers, receives, or delivers fish in the Exclusive Economic Zone (EEZ), shall submit a completed hailed weight form or an ADF&G fish ticket to the department before the fish are transported out of the jurisdiction of this state. At the time of delivery or as otherwise directed by the department, fish tickets must include the following:

(1) the name of the individual or company that is the first purchaser of raw fish, catcher-seller, catcher-exporter, or catcher-processor, the assigned processor code imprinted on the fish ticket from the code plate issued by the department or the electronically captured information from the CFEC permit card, and the signature of the individual or a company representative to whom the code plate is issued or the eLandings system operation is authorized;

(2) the full name and signature of the CFEC permit holder at the time of delivery, including the time of delivery to a commercial fish transporter as specified in AS 16.05.671;

(3) the name, or the United States Coast Guard number or Department of Transportation number, of the vessel employed in taking the fish;

(4) the date fishing gear was deployed and the date of the delivery of the fish;

(5) the permanent vessel license plate number or, if a fishing operation does not possess a vessel license plate number, the five-digit missing value code number 99999;

(6) the type of gear by which the fish were taken by gear code number;

(7) the ADF&G statistical area, district, and subdistrict, and the nearest headland or bay in which the fish were taken;

(8) information applicable to the following species, and as found on the department's ADF&G _ FC 101 form;

(A) the number, pounds, delivery condition code, product designation code, overage code, and disposition code of salmon, by species;

(B) the pounds, delivery condition code, product designation code, overage code, and disposition code of salmon roe, by species;

(C) the number, pounds, delivery condition code, product designation code, overage code, and disposition code of other finfish, by species;

(D) the number, pounds, delivery condition code, product designation code, overage code, and disposition code of king, Dungeness, and Tanner crab;

(E) the number or pounds, delivery condition code, product designation code, overage code, and disposition code of other shellfish by species;

(F) repealed 12/5/2009;

(G) the weight modification code number applicable to the eLandings system;

(H) the pounds or tons of herring;

(I) partial deliveries of groundfish as specified in 5 AAC 28.070(f);

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(9) the CFEC permit number of the operator of the unit of gear with which the fish were taken, imprinted on the fish ticket from the valid permit card or electronically captured from the valid permit card; the imprinting requirement under this paragraph may be suspended by a local representative of the department after presentation by the commercial fisherman of documentation from the department or CFEC that the permit card has been lost, transferred, or destroyed; if a suspension is granted, the buyer or commercial fisherman must write the permit number on the fish ticket;

(10) the number of fish of any species retained by a commercial fisherman for that person's own use as specified in 5 AAC 39.010;

(11) the number of licensed crewmembers, including the vessel operator on board the vessel;

(12) the number of certified onboard observers, if applicable;

(13) the management program code, if using the eLandings system;

(14) the permanent vessel license plate number of the tender vessel or vehicle used to tender fish, if applicable;

(15) use of a dual permit and the second CFEC permit number, if applicable;

(16) any other information that the commissioner determines is necessary.

(d) An individual may not possess a fish ticket that has been imprinted with a CFEC permit number until the time of delivery, except for a fish ticket that has been imprinted with a CFEC permit number for fish that have been transferred to a permitted commercial fish transporter for delivery to a processor.

(e) A commercial fisherman shall furnish to the buyer factual catch data necessary for completion of reports required by the commissioner.

(f) A processor using the eLandings System must electronically submit the initial landing report at the completion of the delivery, and submit to the department the final landing report and the eLandings fish ticket within seven days.

(g) A commercial shellfish fisherman shall submit to the department in writing or electronically through the eLandings System, directly or through the buyer, data necessary for reports required by the commissioner.

(h) Unless otherwise specified in this chapter, in addition to other requirements of this section, each person that is the first purchaser of or that first processes raw groundfish or halibut shall comply with the record keeping and electronic reporting requirements through the eLandings System or any other reporting requirements in 50 C.F.R. 679.5 revised as of December 15, 2008. The commissioner may, by emergency order, close a fishing season and immediately reopen a fishing season during which a different reporting requirement is in effect, as determined by the commissioner.

(i) Notwithstanding (a) of this section, if the commissioner determines it is necessary, the following information regarding the transporting of unprocessed fish must be transmitted to an authorized local representative of the department either verbally, in writing, or by telephone:

(1) the number and species of salmon taken in a regulatory area must be reported before being transported to any other area or out of the state;

(2) the numbers or pounds, by species, of all other fish must be reported before

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being transported out of the state.

(j) An operator of a floating fish processing vessel shall report in person, or by radio or telephone, to the local representative of the department located within the management area of intended operation before the start of processing operations. The report must include the initial processing location by district or subdistrict, the exact latitude and longitude of the location, and the date of intended operation. Before moving the operation and upon arriving at a new location, the operator shall notify the local department representative in person, or by radio or telephone, of the new location of operation by district or subdistrict and exact latitude and longitude of the location. A local representative of the department may waive all or part of the requirements of this subsection upon determining that the requirements are not necessary for the conservation or management of the fishery in that area.

(k) For purposes of this section,

(1) "buyer-exporter" means the first purchaser of unprocessed fish or a fishery resource from a commercial fisherman and transports that unprocessed fish or fishery resource out of this state;

(2) "catcher-exporter" means a commercial fisherman who exports or attempts to export out of this state unprocessed fish that were legally taken by the catcher-exporter;

(3) "catcher-processor" means a commercial fisherman who catches and sells processed or unprocessed fish or fish products and

(A) exports the fish processed or unprocessed out of this state;

(B) processes or has the fish custom processed for sale in this state or out of this state;

(4) "catcher-seller" means a commercial fisherman, who sells or attempts to sell unprocessed fish that were legally taken by the catcher-seller,

(A) to the general public for use for noncommercial purposes;

(B) for use as bait for commercial or noncommercial purposes;

(C) to restaurants, grocery stores, and established fish markets;

(D) by shipping the fish to a licensed buyer, processor, or exporter within this state;

(5) "commercial fish transporter" means those individuals whose activities require a permit under AS 16.05.671;

(6) "delivery" means offloading fish for sale or for transport to a buyer for later sale;

(7) "eLandings System"

(A) means the electronic and Internet based reporting system developed by the department, the National Marine Fisheries Service, and the International Pacific Halibut Commission to provide an alternative to paper fish tickets;

(B) includes the following:

(i) eLandings, which is a web application for shore side and Internet capable vessels;

(ii) seaLandings, which is a desktop application for sea vessels without

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Internet capability; and

(iii) tLandings, which is thumb drive application for salmon and other tender operations;

(8) "first purchaser"

(A) means the person that first purchases raw fish directly from the commercial fisherman for the purchaser's own business and does not act as a buying agent for another business;

(B) includes a

(i) buyer-exporter;

(ii) floating processor;

(iii) independent buyer; and

(iv) shorebased processor;

(9) "floating processor" means the operator of a vessel who is the first purchaser of an unprocessed fishery resource from a commercial fisherman who caught the fish and

(A) exports that resource, processed or unprocessed, out of this state;

(B) processes that resource or has that resource custom processed;

(10) "independent buyer" means the first purchaser of an unprocessed fishery resource from a commercial fisherman for sale to a shorebased, floating processor, or buyer-exporter;

(11) "shorebased processor" means the first purchaser of unprocessed fishery resource from a commercial fisherman and

(A) exports that resource, processed or unprocessed, out of this state;

(B) processes that resource or has that resource custom processed.

Editor's note: The department's hailed weight form (ADF&G_HWT 1) and ADF&G_FC 101 form required in 5 AAC 39.130(c) are available on the department's website at <http://www.cf.adfg.state.ak.us>.

5 AAC 39.132. Annual statistical survey of processor capacity. (a) For fishery management or conservation purposes, or to assist the governor's determination on the issuance of foreign fish processing permits under 5 AAC 39.198, the commissioner or the commissioner's designee may conduct annual statistical surveys of fish buyers and processors intending to purchase and process fish for an upcoming fishing season.

(b) The commissioner, or the commissioner's designee, will determine annually the specific fisheries that require a statistical survey as specified in (a) of this section.

(c) The commissioner, or the commissioner's designee, will select survey participants based on the amount of fish the participants purchased and processed in the subject fishery in prior years. The participant's previous purchasing and processing activity will be assessed from fish ticket records, annual statistical reports required under 5 AAC 39.130(a)(2), and any other pertinent information collected by the department.

(d) The department will provide to selected survey participants written notification of the department's intent to conduct a statistical survey regarding the participant's intent and capacity to purchase and process fish in a fishery during the upcoming fishing season. Within

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72 hours of receipt of the written notification of participation, a selected survey participant shall furnish to the department the name, mailing address, facsimile number, and telephone contact number for the person able to accurately provide the information requested on the participant's behalf.

(e) A statistical survey under this section will address the following data:

(1) the maximum amount of fish in pounds or numbers of fish that the participant intends to purchase and process during the upcoming fishing season;

(2) the approximate maximum daily amount of fish in pounds or numbers of fish that the participant intends to purchase and process in the upcoming fishing season;

(3) the approximate number of vessels or fishermen from which the participant intends to purchase and process fish;

(4) the number of tenders and remote fish buying stations that the participant intends to operate during the upcoming fishing season;

(5) the approximate beginning and ending dates for the time period the participant intends to purchase and process fish in the subject fishery;

(6) any anticipated changes in facilities, processes, or operations that would substantially change the intended purchasing and processing capacity in the subject fishery from the participant's operation the previous year; and

(7) any other information the commissioner or commissioner's designee determines to be important for fishery management or conservation purposes or for the governor's determinations regarding foreign fish processing permits.

(f) A buyer or processor selected to participate in the survey shall

(1) submit a complete and accurate response to the department by the return date specified on the survey; and

(2) immediately notify the department of any changes in purchasing and processing capacity plans compared to those previously reported in the survey.

(g) Annual survey responses that identify intended fish purchasing and processing activities are confidential as annual statistical reports under AS 16.05.815(a).

5 AAC 39.135. Requirements for releasing confidential information to third persons.

(a) A person requesting the release of confidential information to a third person regarding the requesting person's fishery landings shall make the request in the form of a limited power of attorney on a request form provided by the department. The department will make the request form available at its local and regional offices and its website.

(b) The person requesting the release of information under this section shall indicate on the request form the time period that the person authorizes the department to release the information that is not less than 30 days and not more than one year from the date that the person signs the form.

(c) The person requesting the release of information under this section shall complete the request form as prescribed by the department. When submitting the form in person, the person shall produce a government-issued photo identification for inspection by a department employee. If the form is being submitted by mail, the person shall first have the form notarized. If the form is being sent by facsimile, the person shall first have the form notarized, and after facsimile transmission, shall mail the original form to the department

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office that the facsimile was sent. The department will not release information requested under this section until it receives the original, completed request form.

Editor's note: A copy of the release form can be found on the Department of Fish and Game's, Division of Commercial Fisheries, website at www.cf.adfg.state.ak.us. A list of addresses and telephone and fax numbers for the Department of Fish and Game's local and regional offices can be found on the Division of Commercial Fisheries website at www.cf.adfg.state.ak.us/geninfo/contacts/offices.htm. In addition, copies of the release form, and addresses, and telephone and fax numbers, may be obtained at the Department of Fish and Game, Division of Commercial Fisheries, 1255 W. 8th Street, P.O. Box 115526, Juneau, Alaska 99802-5526: Phone (907) 465-4210.

5 AAC 39.140. Inspection of fishing establishments and vessels. (a) Representatives of the Department of Fish and Game or the Department of Public Safety shall have free and unobstructed access to all fishing vessels, canneries, salteries, and other land-based or floating processing establishments to inspect catch, equipment, gear, and operational compliance with AS 16 and regulations promulgated thereunder.

(b) Upon being approached by a vessel or aircraft under the control of a representative of the Departments of Fish and Game or Public Safety, the operator of a fishing vessel, catcher/processor, or floating processor shall be alert for, and immediately comply with, signals conveying enforcement intent. A vessel operator signaled to stop or heave to for boarding shall

- (1) stop immediately and lay to or maneuver in such a way as to permit the representative and his party to come aboard;
- (2) if requested, provide a safe ladder for the representative and his party;
- (3) when necessary to facilitate the boarding, provide a man rope, safety line and illumination of the ladder;
- (4) take such other actions as necessary to ensure the safety of the representative and party and to facilitate the boarding; and
- (5) make every effort to comply with all lawful orders given by the representative, except that the owner or operator of the vessel is solely responsible for navigation, supervision, and control of the vessel and his decisions shall be final in all matters pertaining to proper navigation and safety of the vessel crew, and fishing gear.

(c) On a vessel which catches and processes crab and is required to carry an observer under 5 AAC 39.645, the vessel operator must separate crab to be retained and, before butchering, must make those crab available to the observer for inspection.

(d) Notwithstanding the requirements of 5 AAC 30.392(c), 5 AAC 30.393, 5 AAC 33.392(d), and 5 AAC 33.393, upon request by a representative of the Department of Fish and Game or a peace officer of the state, a fisherman or processor shall relinquish the tag and head of adipose-fin-clipped salmon, and shall inform the representative or peace officer of the date and location of the catch, if known.

5 AAC 39.141. Onboard observer program. (a) The Board of Fisheries finds that, in particular fisheries, observers on board fishing vessels would greatly enhance management, primarily by facilitating information gathering, and by improving regulatory compliance. Onboard observers may be the only practical fishery monitoring, data-gathering, or enforcement mechanism in some Alaska fisheries where a large component of vessels, such

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as catcher-processors and floating processors, rarely or never enter Alaskan ports. The Board of Fisheries, therefore, finds it necessary to authorize the Alaska Department of Fish and Game to implement onboard observer programs in particular fisheries when the board determines that it

- (1) is the only practical data-gathering or enforcement mechanism;
- (2) will not unduly disrupt the fishery; and
- (3) can be conducted at a reasonable cost.

(b) Every onboard observer shall have free and unobstructed access to inspect the catch, equipment, gear, or operations of the fishing vessel or the tender to which the observer is assigned, and to board vessels delivering to the vessel to which the observer is assigned and inspect the catches of vessels delivering to the vessel to which the observer is assigned while the vessel to which the observer is assigned is

- (1) within waters under the jurisdiction of the state;
- (2) taking or intending to take any species of fish; or
- (3) transporting or processing any species of fish.

(c) Onboard observers must be as unintrusive to vessel operations as practicable and must make the scope of their activities as predictable as possible in the performance of their assigned observer duties.

(d) Onboard observers are not required to obtain criminal or administrative search warrants to conduct their duties.

(e) Onboard observers shall carry out such scientific and other duties as deemed necessary or appropriate to manage, protect, maintain, improve, and extend the fish and aquatic plant resources of the state.

(f) Onboard observers shall have free access to all vessel location information at any time, including free and unobstructed access to vessel coordinates and depths for all sampled pots.

(g) Every independent contracting agent, and their office personnel and business agents while employed by the independent contracting agent and for six months after terminating that employment, may not work as an onboard observer.

5 AAC 39.142. Conflict of interest standards for onboard observers and independent contracting agents. (a) A department approved fisheries onboard observer

- (1) must be employed by
 - (A) an independent contracting agent who has been certified by the department; or
 - (B) the department;
- (2) may not have a financial interest in the observed fishery;
- (3) may not have a personal interest in the vessel to which he or she is assigned;
- (4) may not serve as a crewmember or processing worker on the vessel to which he or she is assigned;
- (5) may not solicit, accept, or receive, directly or indirectly, a gift, whether in the form of money, service, loan, travel, entertainment, hospitality, employment promise,

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or in any other form, that is a benefit to the observer's personal or financial interests, under circumstances in which it could be reasonably inferred that the gift is intended to influence the performance of official duties, actions, or judgment;

(6) may not have been convicted of a misdemeanor or felony involving fraud, dishonesty, an "offense against the person" in violation of AS 11.41, arson under AS 11.46.400, or a fish and game misdemeanor or fish and game infraction with a penalty in excess of \$300 for a period of seven years preceding application to the onboard observer program;

(7) may not have a personal or financial interest, other than that of the observer's employee relationship, in the entity that employs the observer;

(8) may not spend more than 90 days on board any one vessel in 12 consecutive months, unless the 90-day limitation is waived by the department for good cause, except that an onboard observer may spend up to 120 days on board any one vessel in 12 consecutive months during a crab fishery that is 75 days or longer in duration;

(9) may be assigned to a vessel only upon approval by the department.

(b) An independent contracting agent who provides onboard observers

(1) may not be an individual, partnership, or corporation with a personal or direct financial interest in the proceeds of any vessel licensed to process or harvest in the affected fishery, other than the provision of observers;

(2) shall assign observers to vessels without regard to requests from vessel owners or operators for a specific individual;

(3) repealed 12/26/97;

(4) may not knowingly or negligently hire as an observer an individual who has a personal or financial interest, other than that of the observer's employee relationship, with the contracting agent;

(5) may not hire an observer on a commission basis;

(6) shall for each observer assignment to a vessel, submit to the department, upon request, a written statement, signed by the contracting agent under oath and subject to applicable criminal penalties, stating that the contracting agent does not have a personal interest and does not have a direct or subsidiary financial interest in the vessel or in fishing activities of the vessel;

(7) shall obtain and submit to the department, upon request, for each observer assignment to a vessel, a written statement, signed by the vessel owner, operator, or owner's agent, under oath and subject to applicable criminal penalties, stating that the vessel owner or operator does not have a personal interest and does not have a direct or subsidiary financial interest in the contracting agent.

(c) In this section

(1) "financial interest" means any source of income to, or a capital investment held by, an individual or the individual's spouse or blood relation up to and including the second degree of kindred;

(2) "personal interest" means an interest held or involvement by an individual, partnership, or corporation, or an individual's immediate family member or parent, including membership in any organization from which, or as a result of which, a person or organization receives a benefit.

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5 AAC 39.143. Onboard observer certification and decertification. (a) To become certified as a crab or scallop onboard observer, a person must first obtain a crab or scallop onboard observer trainee permit and complete the trainee requirements of this section. The department shall issue a crab or scallop onboard observer trainee permit to a person who completes training and orientation specified by the department and who passes, with a score of at least 90 percent, an exam administered by the department.

(b) Before embarking on each observer trip, a crab or scallop observer trainee shall participate in a briefing with the department.

(c) A observer trainee permit expires as follows:

(1) a crab observer trainee permit expires on the earlier of the

(A) 36th day after the crab observer trainee has participated in a briefing for an observer trip if, during this 36-day period, the trainee has not participated in a debriefing with the department; or

(B) 180th day after the crab observer trainee permit was issued; however, if a crab trainee observer has been deployed at least once during the first 180 days after the observer permit was issued, the trainee permit may be extended up to 365 days, at the discretion of the department;

(2) a scallop observer trainee permit expires on the earlier of the

(A) 36th day after the scallop observer trainee has participated in a briefing for an observer trip if, during this 36-day period, the trainee has not participated in a debriefing with the department; or

(B) 180th day after the scallop observer trainee permit was issued; however if a scallop trainee observer has been deployed at least once during the first 180 days after the observer permit was issued, the trainee permit may be extended, up to 270 days at the discretion of the department.

(d) The commissioner may revoke a trainee permit for the reasons and under the procedures set out in (j) – (n) of this section. If revocation proceedings are pending on the date the permit would expire under (c)(1) of this section, the permit expires under that paragraph, and all rights under the permit cease. If revocation proceedings are pending on the date the permit would expire under (c)(2) of this section, the permit does not expire on that date, but is suspended until conclusion of the revocation proceedings. The trainee may not act under the permit during the period of suspension. The permit expires at the conclusion of the revocation proceedings unless the department determines that the permit should not be revoked and that the trainee should be certified as an observer under (f) of this section.

(e) A person whose crab or scallop observer trainee permit has expired or has been revoked may not be issued another trainee permit unless that person completes retraining and reorientation specified by the department and repasses, with a score of at least 90 percent, an exam administered by the department.

(f) The department shall certify as a crab or scallop onboard observer a trainee who

(1) has a valid crab or scallop observer trainee permit;

(2) has satisfactorily completed all assigned trainee tasks specified by the department in writing, or assigned verbally in person, or during radio, telephone, or other electronic communication transmission while the observer is deployed to a vessel;

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(3) has not engaged in behavior described in (j) of this section;

(4) has completed the number of observer trips that the department, in its discretion, determines from debriefing the trainee are necessary to prepare the trainee to perform as a crab or scallop onboard observer; and

(5) is not the subject of revocation proceedings under this section.

(g) A trainee may appeal a denial of certification as a crab or scallop onboard observer to the commissioner. The appeal must be in writing and must be received by the commissioner within 15 days after the denial. The commissioner or the commissioner's designee shall conduct an investigation and review, and may hold a hearing on the matter. If a designee conducts an investigation and review or holds a hearing, the designee shall recommend action to the commissioner. The commissioner shall make a decision within 45 days after receiving an appeal. The commissioner's decision under this section is the final administrative action.

(h) Until the commissioner's decision in an appeal under (g) of this section, the trainee may act under the terms of a valid trainee permit. If, while an appeal under (g) of this section is pending, the permit expires under (c) of this section or is revoked under (d) of this section, all rights under the permit cease.

(i) An onboard observer certification expires as follows:

(1) for a crab observer who has not functioned as a crab onboard observer for 12 consecutive months, the onboard observer certification expires; to become recertified after 12 consecutive months of not functioning as a crab observer, a person must successfully complete all trainee and certification requirements set out in (a), (b), (c), (e), and (f) of this section;

(2) for a scallop observer who has not functioned as a scallop onboard observer for 12 consecutive months, the onboard observer certification expires; to become recertified after 12 consecutive months or more of not functioning as a scallop onboard observer, a person must successfully complete all trainee and certification requirements set out in (a), (b), (c), (e), and (f) of this section.

(j) An onboard observer certification may be revoked for any one of the following reasons:

(1) failure to satisfactorily complete all assigned tasks specified by the department in writing, or assigned verbally in person, or during radio, telephone, or other electronic communication transmission while the observer is deployed to a vessel;

(2) use, possession, or being under the influence of alcohol or an illegal controlled substance on board the assigned vessel, boarding any vessel under the influence of alcohol or an illegal controlled substance, missing an appointment with the department due to alcohol or an illegal controlled substance, or attending an appointment with the department under the influence of alcohol or an illegal controlled substance;

(3) engaging in violent or criminal behavior, including behavior that may endanger a person or property on the assigned vessel or that prevents the observer from performing tasks according to the standards of the onboard observer manual;

(4) soliciting or accepting items or services, other than basic life necessities, from an operator, owner, or crewmember of a vessel to which the observer is assigned;

(5) failure to report known criminal behavior or cooperate with the investigation

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or prosecution of criminal behavior arising from fishing operations of the vessel to which the observer is assigned;

(6) engaging in sexual relations with an employee, operator, crewmember, officer, director, agent, owner, or shareholder of the vessel or any entity with ownership of, or management authority over, the vessel to which the observer is assigned while the observer is deployed to a vessel;

(7) repealed 7/21/99;

(8) exhibiting poor judgment or unprofessional behavior that interferes with the observer's ability to perform assigned tasks or results in a breach of confidentiality, lack of observer coverage, or other actions detrimental to the observer program.

(k) A certified onboard observer may be demoted to trainee status for failure to satisfactorily perform assigned tasks specified by the department.

(l) The department shall notify an observer in writing of its intent to revoke a certification or to demote a certified onboard observer to trainee status. Notice may be served by personal delivery or by sending the notice by certified mail, return receipt requested. The department may revoke the certification or may demote a certified onboard observer to trainee status if, within 45 days after serving or sending the notice, the department does not receive a written objection from the observer that specifies the reasons why revocation or demotion should not occur.

(m) If the department receives an objection under (l) or (n) of this section, the commissioner, or the commissioner's designee, shall conduct an investigation and review, and may hold a hearing on the matter. If a designee conducts the investigation and review, or holds a hearing, the designee shall recommend action to the commissioner. Until the commissioner's decision under this subsection, the observer may act under the terms of the certification. If the commissioner determines that one or more of the grounds for revocation of the certification have been met, the commissioner may revoke the certification. If the commissioner determines that one or more of the grounds for demotion have been met, the commissioner may demote the onboard observer to trainee status. The commissioner's determination under this subsection is the final administrative action.

(n) If the commissioner determines that the performance of an onboard observer creates an immediate, substantial threat to the orderly conduct of the fishery or the conservation of fishery resources, the commissioner, upon notice to the observer, without first conducting a hearing, may suspend the certification or may demote the observer to trainee status. If a certification is suspended or if an observer is demoted to trainee status under this subsection, the commissioner shall notify the observer, in writing, and specify the grounds for the immediate suspension or demotion. The observer may submit a written objection to the department's action that specifies the reasons why the certification should not be suspended or why the demotion should not occur. If an objection is not received within 45 days after the date that the notice was mailed or served by personal delivery, the commissioner shall notify the observer that the certification is revoked or that the observer is retained on trainee status, subject to (b) – (h) of this section, as the final administrative determination. Notice under this subsection may be served by personal delivery or certified mail, return receipt requested, to the observer's last known address. If a timely objection is received, the provisions of (m) of this section apply. The suspension or demotion terminates, and the observer is returned to certified observer status, if, within 90 days after the department's receipt of an objection, the commissioner

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(1) makes the final administrative determination to return the observer to certified observer status;

(2) fails to provide notice of the revocation or demotion under this section; or

(3) fails to make a final determination under (m) of this section that revokes the certification or demotes the observer to trainee status.

(o) Repealed 12/26/97.

(p) In this section,

(1) "briefing" means a meeting between the department and an observer in which the upcoming observer trip is discussed;

(2) "debriefing" means a meeting between the department and

(A) an observer in which the observer's collected data are reviewed;

(B) a trainee observer to determine if the trainee will be granted certification status under (f) of this section;

(3) "trainee" means a person who holds a crab or scallop onboard observer trainee permit and is a candidate to be a certified crab or scallop onboard observer.

5 AAC 39.144. Onboard observer independent contracting agent certification and de-certification. (a) To become certified or to renew certification as an independent contracting agent authorized to provide onboard observers, an applicant must meet the requirements of this section. The department shall issue or renew an independent contracting agent certificate only after

(1) the applicant has completed a written application on a form provided by the department; in this application the applicant shall

(A) verify that the applicant is familiar with the requirements of 5 AAC 39.141 – 5 AAC 39.143, 5 AAC 39.146, 5 AAC 39.645, 5 AAC 39.646, and this section for onboard observers and contracting agents;

(B) acknowledge that the applicant's certification as an independent contracting agent will be subject to revocation by the commissioner at any time under the procedures set out in (e) – (j) of this section;

(C) designate an agent in this state for service of process;

(D) provide a current mailing address, daytime business phone number, and a contact or message phone number;

(E) provide all other information requested by the department to assist the department in administration, management, or enforcement of its onboard observer program or certification of onboard observer independent contracting agents;

(F) verify that the applicant is not precluded from certification under (i) of this section;

(2) the applicant has completed a written conflict-of-interest statement on a form provided by the department;

(3) the department has reviewed the application and the conflict-of-interest statement submitted under this section and has determined that the application is complete and that no conflict of interest appears to exist under 5 AAC 39.142;

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(4) the department has determined that certification is not precluded under (i) of this section.

(b) An independent contracting agent's certification expires on December 31 of the year it was issued unless a certification renewal application is received by the department before December 31 of that year, or unless the certification has been previously canceled or revoked under this section. The department shall renew a certification if a completed certification renewal application is timely received by the department and no revocation proceedings are pending against the contracting agent on the date the certification would expire or the application is received, and the department has determined that the applicant meets the requirements of this section.

(c) A certified independent contracting agent shall submit a new conflict-of-interest statement to the department

(1) within 30 days after any event that would change any information provided in the contracting agent's most recent conflict-of-interest statement;

(2) when submitting a certification renewal application described in (b) of this section; or

(3) at any time upon request by the department.

(d) The commissioner may revoke an independent contracting agent's certification as provided in (e) – (h) of this section. If revocation proceedings are pending on the date the certification would expire under (b) of this section, and if a certification renewal application has been received by the department, the certification will not expire on that date, but is suspended until the conclusion of the revocation proceedings. If a certification renewal application is received by the department before the contracting agent's certification would expire under (b) of this section and revocation proceedings begin after the certification has been renewed, the contracting agent may continue to operate under its existing certification until the conclusion of the revocation proceedings, unless a suspension has occurred under (g) of this section.

(e) An independent contracting agent's certification may be revoked for any of the following reasons:

(1) violation of conflict-of-interest standards in 5 AAC 39.142(b) by the contracting agent;

(2) failure to require employees to follow conflict-of-interest standards;

(3) a substantial violation of the requirements of 5 AAC 39.141, 5 AAC 39.143, 5 AAC 39.146, 5 AAC 39.645, 5 AAC 39.646, and this section;

(4) any other violation of the requirements of 5 AAC 39.141 – 5 AAC 39.143, 5 AAC 39.146, 5 AAC 39.645, 5 AAC 39.646, and this section that is not described in (1) and (3) that is not cured within a reasonable time specified by the department after the department has notified the contracting agent, in writing, of the violation;

(5) failure to respond, within the time specified by the department, to a request from the department for information, unless within the specified time the contracting agent demonstrates to the department that the request is unreasonable;

(6) failure to maintain an effective means of communication between the contracting agent and the department;

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(7) failure to report known violations of conflict-of-interest standards or known attempts to violate conflict-of-interest standards;

(8) failure to report known criminal behavior by an observer or criminal behavior arising from fishing operations of the fishing vessel to which the contracting agent has assigned an observer;

(9) failure to cooperate with investigation or prosecution of an observer employed by the contracting agent or a fishing vessel for which the contracting agent has provided an observer.

(f) The commissioner shall notify an independent contracting agent, in writing, of its intent to revoke the contracting agent's certification. Notice under this subsection may be served by personal delivery or by sending the notice by certified mail, return receipt requested, to the contracting agent or to the agent's designee for service of process in this state. The commissioner may revoke the certification without further proceedings if, within 45 days after the date that the notice was mailed or served by personal delivery, the department does not receive a written objection from the contracting agent that specifies the reasons why the revocation should not occur.

(g) If the commissioner determines that the performance of an independent contracting agent creates an immediate, substantial threat to the orderly conduct of the fishery or the conservation of fishery resources, the commissioner, upon notice to the contracting agent, without first conducting a hearing, may suspend the certification. If a certification is suspended under this subsection, the commissioner shall notify the contracting agent in writing and specify the grounds for immediate suspension. The contracting agent may submit a written objection to the department's action that specifies the reasons why the revocation should not occur. If an objection is not received within 45 days after the date that the notice was mailed or served by personal delivery, the commissioner shall notify the contracting agent that the certification is revoked, subject to (a) – (c) and (i) of this section, as the final administrative determination. Notice under this subsection may be served by personal delivery or certified mail, return receipt requested, to the contracting agent or to the agent's designee for service of process in this state. If a timely objection is received, the provisions of (h) of this section apply. The suspension terminates within 90 days after the department's receipt of an objection, if the commissioner

(1) makes the final administrative determination to withdraw the suspension; or

(2) fails to make a final determination under (h) of this section.

(h) If the department receives a timely objection under (f) or (g) of this section, the commissioner, or the commissioner's designee, shall conduct an investigation and review and may hold a hearing on the matter. The contracting agent's certification shall remain in effect during an investigation and review unless it is suspended under (g) of this section. If a designee conducts the investigation and review or holds a hearing, the designee shall recommend action to the commissioner who may then adopt it as the final administrative determination. If the commissioner disagrees with the recommendation, the commissioner may reject the recommendation and review the record or conduct a new hearing to make a final administrative determination. If the commissioner determines that one or more of the grounds for revocation of certification have been met, the commissioner may revoke the certification. The commissioner's determination under this subsection is the final administrative action.

(i) An independent contracting agent whose certification has been revoked under this

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section may not apply for a new certification for a period of one year following revocation. If the contracting agent is a partnership or corporation, its partners, shareholders who hold 20 percent or more of the corporation's outstanding stock, officers, directors, any person with management authority over the activity or activities that significantly contributed to the revocation may not apply for a contracting agent certification for a period of one year following revocation.

(j) The department may cancel an independent contracting agent's certification upon the request of the contracting agent. The department, in its discretion, may proceed with revocation proceedings despite a request for cancellation from a contracting agent.

(k) The provisions of (a) – (j) of this section do not apply until April 1, 1998 to an independent contracting agent approved by the department before the effective date of this section.

5 AAC 39.145. Escape mechanism for shellfish and bottomfish pots. Pot gear must include an escape mechanism in accordance with the following provisions:

(1) a sidewall, which may include the tunnel, of all shellfish and bottomfish 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. Dungeness crab pots may have the pot lid tie-down straps secured to the pot at one end by a single loop of untreated, 100 percent cotton twine no larger than 60 thread, as a substitute for the above requirement; the pot lid must be secured so that, when the twine degrades, the lid will no longer be securely closed;

(2) all king crab, Tanner crab, shrimp, miscellaneous shellfish and bottomfish pots may, instead of complying with (1) of this section, satisfy the following: a sidewall, which may include the tunnel, must contain an opening at least 18 inches in length, except that shrimp pots must contain an opening at least six inches in length. The opening must be laced, sewn, or secured together by a single length of treated or untreated twine, no larger than 36 thread. A galvanic timed release (GTR) device, designed to release in no more than 30 days in salt water, must be integral to the length of twine so that, when the device releases, the twine will no longer secure or obstruct the opening of the pot. The twine may be knotted only at each end and at the attachment points on the galvanic timed release device. The opening must be within six inches of the bottom of the pot and must be parallel with it. The twine may not be tied or looped around the web bars;

(3) in an area open to commercial, personal use, sport, or subsistence fishing with pot gear, including a pot storage area, a registered commercial fishing vessel or a vessel used for personal use, sport, or subsistence fishing may not have on board the vessel or in the water, in fishing or stored condition, any bottomfish or shellfish pot gear that does not have an opening or rigging as specified in (1) or (2) of this section;

(4) all commercial, subsistence, personal use, and sport shellfish pots constructed with rigid mesh must have at least one opening in a sidewall of the pot which may include the tunnel, except Dungeness crab pots that have a pot lid tie-down that complies with (1) of this section; the opening in a king crab or Tanner crab pot must be equal to or exceed a 12-inch by 8-inch rectangle; the opening in a Dungeness crab pot must be equal to or exceed a 10-inch by 6-inch rectangle; the lower long edge of the opening must be parallel

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to, and within six inches of, the bottom of the pot; the opening in a shrimp pot must be equal to or exceed a four-inch square; the lower edge of the opening must be parallel to, and within six inches of, the bottom of the pot; the opening may be covered with a single panel secured to the pot with no more than four single loops of untreated, 100 percent cotton twine no larger than 30 thread; each single loop of cotton twine may contain only one knot and may not be laced along the opening; the panel must be attached to the pot in a manner that when the cotton twine degrades the panel will drop away from the pot exposing the opening completely.

5 AAC 39.146. Onboard observer briefing and debriefing. (a) An onboard observer shall attend a briefing before deployment on the observer's assigned vessel. An observer shall bring to the observer's briefing all equipment that is specified, in writing, by the department.

(b) An onboard observer shall immediately notify the department of the observer's departure from the assigned vessel. After departure, an observer shall return directly to the department office responsible for management of the fishery that the observer's assigned vessel participated in for a debriefing, unless the observer contacts the department for authorization to do otherwise.

(c) An onboard observer shall be briefed and debriefed only at the department office responsible for management of the fishery that the observer's assigned vessel participates in, unless the department authorizes a different department office. The observer's independent contracting agent shall schedule briefings and debriefings with the department at least 48 hours in advance.

(d) If an onboard observer's vessel returns to any port for any reason, the observer shall contact the department immediately and be prepared to provide all of the observer's data and deployment information to the department. The department may schedule a midtrip debriefing, which will allow a preliminary data check and provide the department an opportunity to resolve sampling problems or answer observer questions.

5 AAC 39.150. Explosives, chemicals and poisons unlawful. The use of an explosive, chemical or poison in the taking or killing of fish or shellfish is prohibited, except that chemical baits or lures may be used to attract shellfish.

5 AAC 39.163. Bottom Trawl Fisheries Management Plan. (a) The Board of Fisheries and the Department of Fish and Game are concerned about the bycatch of fish, particularly crab and halibut, by nonpelagic trawl gear used to harvest bottomfish. King and Tanner crab populations in most areas of the state are either depressed or declining and are in need of protection from human-induced mortality if they are to be allowed to rebuild to levels that will allow future harvests. Halibut populations, while high, are fully utilized in directed fisheries, and any additional harvest by nondirected fisheries may increase exploitation rates above those used to maintain a sustained harvest level. There is an indication that nonpelagic trawl gear may, at certain times and in certain locations, inflict unacceptable mortalities on these nondirected species. Since there is not, at this time, enough data available to quantify the effects of nonpelagic trawl fisheries on nondirected species, the board adopts the Bottom Trawl Fisheries Management Plan as a means of ensuring that the data can be obtained.

(b) The Board of Fisheries finds that in fisheries operating nonpelagic trawls, onboard observers provide the only effective means of collecting information essential to managing the resource. These fisheries generally harvest large numbers of prohibited finfish and shellfish that cannot be legally retained. Since a large portion of the prohibited species taken will be killed or seriously damaged in the trawl, avoidance of prohibited species is essential to

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conservation and wise use of the resource. Without onboard observers, scientifically reliable data on prohibited species catch and related biological information cannot be developed. In the absence of a reliable database, the department cannot effect time and area restrictions or set nonpelagic trawl catch quotas to provide protection for prohibited species.

(c) Based on findings that onboard observers provide the only way to establish reasonable resource protection measures in managing certain nonpelagic trawl fisheries, and consistent with 5 AAC 39.141 and AS 16.05.251(a)(12), a vessel may not operate nonpelagic trawl gear in waters specified in 5 AAC 39.164(a) without an onboard observer present. Because no management alternatives exist, other than disallowing operation of such vessels and gear, all costs associated with the observer are determined to be an attendant fishing-related cost and must therefore be borne by the vessel owner or operator on board whose vessel the observer serves.

(d) When sufficient reliable data has been collected to determine times and locations where nonpelagic trawl gear can be operated without significant detrimental impact on prohibited species, the limitations in this section and 5 AAC 39.164 will be appropriately modified.

5 AAC 39.164. Nonpelagic trawl gear restrictions. (a) Nonpelagic trawl gear may be operated in all waters of Tanner crab Registration Area J (5 AAC 35.500) only if, as may be required under 5 AAC 39.163(c), an onboard observer is present on the vessel when gear is being operated, only under the conditions of a permit issued by the commissioner, and only in locations and during periods not otherwise closed to nonpelagic trawling under (b) or (c) of this section. The permit

(1) must specify the locations and times when nonpelagic trawl gear may be operated;

(2) may restrict the amount of fish and shellfish that may be harvested within a specified location; and

(3) must be obtained in person at a department office located within the statistical area.

(b) Nonpelagic trawl gear may not be operated in waters of Alaska as follows:

(1) the waters of Alaska in the Kodiak groundfish registration area described in 5 AAC 28.400;

(2) repealed 7/2/99;

(3) from January 1 through December 31, in waters of the Chignik groundfish registration area described in 5 AAC 28.500, and all waters west of the southernmost tip of Kupreanof Point, which are depicted as Territorial Sea on *NOAA Chart #16540*, 11th Ed., March 4, 1989 entitled, "Shumagin Island to Sanak Island," hereby adopted by reference, and all waters east of the longitude of Scotch Cap Light and south of Unimak Island and the Alaska Peninsula, which are depicted as Territorial Sea on *NOAA Chart #16520*, 21st Ed., April 15, 1989, entitled, "Unimak and Akutan Passes and Approaches," hereby adopted by reference, except the waters

(A) in the area enclosed by 55° 14' N. lat., 55° 34' N. lat., 159° 20' W. long., and 160° 04' W. long.;

(B) of Alaska around Sanak and Canton Islands north of 54° 22.80' N. lat. and east of 162° 41.83' W. long.;

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(4) in the following waters of king crab Registration Area O (5 AAC 34.600) from January 1 through December 31:

(A) Akutan Bay closure, all waters of Akutan Bay south of a line from Akun Head (54° 18' N. lat., 165° 38' W. long.) to North Head (54° 13.50' N. lat., 165° 56' W. long.), and north of 54° 08' N. lat.;

(B) Unalaska Bay closure, all waters of Unalaska Bay enclosed by a line from Cape Cheerful (54° 01' N. lat., 166° 40' W. long.) to Cape Kalekta (54° 00.50' N. lat., 166° 22.50' W. long.);

(C) Makushin Bay closure, all waters of Makushin Bay enclosed by a line from Cape Kovrizhka (53° 51' N. lat., 167° 09.50' W. long.) to Cape Idak (53° 31.33' N. lat., 167° 48' W. long.) to Konets Head (53° 19' N. lat., 167° 51' W. long.);

(D) Inanudak Bay closure, all waters of Inanudak Bay enclosed by a line from Cape Aslik (53° 25' N. lat., 168° 24.50' W. long.) to Cape Illmalianuk (53° 16.50' N. lat., 168° 36' W. long.);

(E) Akun Bay closure, all waters of Akun Bay enclosed by a line from Billings Head (54° 17.50' N. lat., 165° 28.50' W. long.) to 54° 13' N. lat., 165° 24.50' W. long. on the opposite shore;

(F) Beaver Inlet closure, all waters of Beaver Inlet south of a line from Brundage Head (53° 56' N. lat., 166° 12.50' W. long.) to Cape Sedanka (53° 50.50' N. lat., 166° 05.33' W. long.) and north of 53° 42' N. lat.;

(5) the department shall close, by emergency order, waters of king crab Registration Area T (5 AAC 34.800) in a manner that matches closures of the exclusive economic zone made by the federal government;

(6) the waters of Alaska of the Bering Sea between 162° W. long. to 164° W. long. and 56° N. lat. and 57° N. lat.;

(7) repealed 4/24/2009;

(8) the St. Lawrence Island Habitat Conservation Area as described in 50 C.F.R. Part 679, Table 45, as revised as of October 25, 2008;

(9) the Northern Bering Sea Research Area as described in 50 C.F.R. Part 679, Table 43, as revised as of October 25, 2008;

(10) the Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area as described in 50 C.F.R. Part 679, Table 44, as revised as of August 25, 2008;

(11) the waters of Alaska of the Bering Sea east of 162° W. long.

5 AAC 39.165. Trawl gear unlawful. A person may not use any type of trawl gear for any commercial fishing purposes in the following locations:

(1) waters of Prince William Sound enclosed by a line from Point Whitshed to Point Bentinck, and a line from Cape Hinchinbrook Light at 60° 14.25' N. lat., 146° 38.80' W. long. to Seal Rocks Light at 60° 09.78' N. lat., 146° 50.30' W. long. to Zaikof Point at 60° 18.48' N. lat., 146° 55.10' W. long., and from a point at 60° 11.00' N. lat., 147° 20.00' W. long. on the northwest side of Montague Island, north to a point at 60° 30.00' N. lat., 147° 20.00' W. long., then east to a point at 60° 30.00' N. lat., 147° W. long., then northeast to Knowles Head at 60° 41.00' N. lat., 146° 37.50' W. long.;

(2) the waters east of a line from Porcupine Point at 60° 44.60' N. lat., 146° 42.10'

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W. long. in Port Fidalgo to the southernmost tip of Bligh Island at 60° 48.30' N. lat., 146° 47.90' W. long. to the northernmost tip of Bligh Island at 60° 52.90' N. lat., 146° 46.00' W. long. to Rocky Point at 60° 57.00' N. lat., 146° 46.20' W. long.;

(3) the state waters of Bristol Bay, described in 5 AAC 06.100;

(4) Karluk River Closure: all waters of Alaska in the Kodiak Area that are approximately three miles on either side of the mouth of the Karluk River bounded on the north by a line from 57° 36.26' N. lat., 154° 23.73' W. long., to a point at the state waters boundary at 57° 38.51' N. lat., 154° 27.92' W. long., and bounded on the south by a line from 57° 32.34' N. lat., 154° 32.15' W. long., to a point at the state waters boundary at 57° 34.84' N. lat., 154° 36.80' W. long.

5 AAC 39.167. Commercial fishing gear prohibited in waters of Alaska surrounding essential fish habitat areas. (a) In the waters of Alaska surrounding essential fish habitat areas, as defined in 50 C.F.R. 679.22, as revised as of August 25, 2008 during state managed fisheries, the following commercial fishing gear is prohibited as follows:

(1) the Aleutian Islands Coral Habitat Protection Area is closed to nonpelagic trawl, scallop dredge, dinglebar troll, pot, and longline gear;

(2) the Aleutian Islands Habitat Conservation Area is closed to nonpelagic trawl gear;

(3) the Bowers Ridge Habitat Conservation Zone is closed to nonpelagic trawl, scallop dredge, and dinglebar troll gear;

(4) the Gulf of Alaska Coral Habitat Protection Areas are closed to nonpelagic trawl, scallop dredge, dinglebar troll, pot, and longline gear;

(5) the Alaska Seamount Habitat Protection Areas are closed to nonpelagic trawl, scallop dredge, dinglebar troll, pot, and longline gear.

5 AAC 39.185. Policy on closures due to illegal fishing. (a) Some fisheries have had a documented history of illegal commercial fishing dating back to 1968. Enforcement efforts by the Department of Public Safety have been largely ineffective in controlling this recurring problem on a long-term basis. The Board recognizes the difficulty of enforcement in some areas of the state and although the current regulations are sufficient to protect fish stocks, they may be ineffective due to special enforcement problems.

(b) In the interest of the conservation of valuable renewable fish resources, the Board of Fisheries directs the commissioner, or his authorized designee, to take the following actions given the specified circumstances. If illegal fishing activities develop to the point that regulations pertaining to protection of fish stocks become ineffective, the commissioner shall consider closing the affected fishery by emergency order for a period of up to one week. When the fishery reopens and illegal fishing continues to be a problem, the appropriate fishery may be closed for an additional period of time. Continued violations may result in additional closures of the fishery.

5 AAC 39.195. Announcement of emergency orders. Announcement of emergency orders will be publicized and made known to interested persons, fishermen, buyers, packers and canneries by one or more of the following means if possible:

(1) radio transmission by department stations;

(2) notices posted at canneries and public places;

(3) press releases and announcements in

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- (A) the department's website;
- (B) local newspapers; and
- (C) commercial radio stations;
- (4) telephone message hotline;
- (5) electronic mail;
- (6) facsimile transmission; and
- (7) other appropriate public notification media.

5 AAC 39.197. Unlawful possession of fish. No person may possess, purchase, sell, barter or transport fish within the state or within water subject to the jurisdiction of the state if that person knows or has reason to know that fish were taken or possessed in contravention of 5 AAC 03 – 5 AAC 39.

5 AAC 39.198. Foreign fish processing permits. (a) Except as provided in this chapter, a foreign fishing vessel is prohibited from engaging in fish processing in the internal waters of Alaska.

(b) A foreign fishing vessel may engage in fish processing in the internal waters of Alaska if

(1) the foreign nation under which it is flagged will be a party to an agreement or a treaty, as required by 16 U.S.C. 1856(c), and during the time the vessel will engage in the fish processing;

(2) the owner or operator of the foreign fishing vessel, or a person representing the owner or operator, applies to the governor for, and is granted, a foreign processing permit for the vessel to engage in fish processing in the internal waters of Alaska.

(c) The governor will not grant a permit under (b)(2) of this section if he determines that fish processors in Alaska have adequate capacity, and will use that capacity, to process all of the United States harvested fish from the fishery concerned that are landed in Alaska.

(d) In determining whether or not fish processors in Alaska have adequate capacity, and will use that capacity, to process all of the United States harvested fish from the fishery, the governor will, in his discretion, consider the following factors:

(1) the total allowable catch expected in the fishery;

(2) availability and capability of harvesting vessels in Alaska, seasonal fishing and processing schedules, and marketing and other similar conditions in the fishery concerned and in alternative fisheries;

(3) availability of labor, adequacy and condition of processing machinery, freezers, and cold storage facilities of fish processors in Alaska, and the ability, intent and plans of those processors to process particular species;

(4) economic considerations, including contracts, agreements, and negotiations for the purchase of United States harvested fish by processors in Alaska;

(5) geographical considerations including proximity of harvest areas to the facilities of fish processors in Alaska; and

(6) the extent to which fish processors in Alaska have processed particular species.

(e) An owner or operator of a foreign fishing vessel who submits an application for a

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permit to engage in fish processing in the internal waters of Alaska must

(1) state the reasons why fish processors in Alaska do not have adequate capacity, or will not use their capacity, to process all of the United States harvested fish from the fishery concerned that are landed;

(2) provide the following information:

(A) vessel description and identification;

(B) names and descriptions of the vessels, if known, from which the applicant will purchase fish;

(C) the species and quantity proposed to be processed and processing methods to be used;

(D) a description of the fishery from which the species will be harvested;

(E) the stage of development of the fishery as established, developing or undeveloped, and a statement of how the proposed operation in the fishery will help to achieve the full potential of the resources and provide benefits including employment, food supply, and revenue;

(F) the dates for which permission is sought;

(G) the specific locations in internal waters proposed for foreign processing;

(H) the qualifying governing international fisheries agreement or treaty, as required by 16 U.S.C. 1856(c);

(I) evidence of compliance with applicable federal and state regulations including state laws and regulations that apply to processing vessels;

(J) proof of financial ability to purchase the expected quantity of fish to be processed, at reasonable market conditions;

(K) the ultimate sales market for the product, and marketing information showing how the operation will benefit development of the United States fishing industry;

(L) other information on the applicant's vessels, equipment, operations, and experience, reliance on local fishing vessel operations, and ability to benefit the United States fishing industry and residents of Alaska.

(f) In evaluating an application for a foreign processing permit, the governor will consider whether and to what extent the applicant and the applicant's nation have been, are, or will be contributing to the conservation, use, management, development, and enforcement of domestic fisheries programs.

(g) If a permit is granted, the governor will, in his discretion, designate times and areas of operations, species and quantities to be processed and other conditions of operation in order to attain desired benefits to the United States fishing industry.

(h) The governor will, in his discretion, suspend or terminate a permit granted under this section when he determines that processors in Alaska have adequate capacity, and will use that capacity, to process all United States harvested fish from the fishery and that the suspension or termination is necessary to achieve desired benefits to the United States fishing industry.

(i) The governor will, in his discretion, appoint a foreign processing advisory committee to obtain and review information regarding fish processing operations, including capacity

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determinations, in Alaska.

(j) In this section,

(1) "developed fishery" means a fishery in which United States processing capacity is available and has been used by United States fishermen and processors but not to the full extent of the total allowable catch in the fishery;

(2) "established fishery" means a fishery in which United States processing capacity has been available and has been used by United States fishermen and processors to the full extent of the total allowable catch in the fishery and in which full utilization by United States fishermen and processors is likely to continue;

(3) "fishery" means

(A) a stock or stocks of fish which may be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; or

(B) the commercial taking of these stocks;

(4) "foreign fishing vessel" means a vessel that is documented under the flag of a foreign nation and engages in fish processing;

(5) "internal waters of Alaska" means all waters within the boundaries of the state except those seaward of the baseline from which the territorial sea is measured;

(6) "processing" means the application of preservative methods to the flesh of fish to maintain quality and prevent deterioration, including

(A) storage and transportation of unprocessed fish;

(B) preparation for preservation;

(C) cooking, canning, smoking, salting, drying, freezing, icing, refrigeration, vacuum packing, gas, microwave preservation, and other preservation means;

(7) "total allowable catch" means the quantity of fish in a fishery that may be harvested without detriment to sustained yield;

(8) "undeveloped fishery" means a fishery in which there has been no United States commercial fishing nor processing of the total allowable catch in the fishery.

Editor's note: Although 5 AAC 39.198 appears in Title 5 of the Alaska Administrative Code, it was amended effective 6/16/82, Register 83, by the governor under the Magnuson Fishery Management and Conservation Act, 16 U.S.C. 1801 et seq., and Article III of the Alaska Constitution. It was amended effective 9/30/84, Register 91, by the commissioner of commerce and economic development under an October 31, 1983 delegation of authority from the governor.

5 AAC 39.200. Application of fishery management plans. (a) The Board of Fisheries has implemented by regulation fishery management plans that provide the Department of Fish and Game with guidelines to be followed when making management decisions regarding the state's subsistence, commercial, sport and personal use fisheries. The primary goal of these management plans is to protect the sustained yield of the state's fishery resources while at the same time providing an equitable distribution of the available harvest between various users. The regulations contained in this section are intended to aid in the achievement of that goal and therefore will apply to all fishery management plans contained in 5 AAC 03 – 5 AAC 39.

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(b) In some fishery management plans, the distribution of harvestable fish between various users is determined by the harvest that occurs during a specific time period, at a specific location or by a specific group or groups of users. At times fishermen, due to circumstances that are beyond the control of the department, such as weather or price disputes, will not harvest fish. When this happens in a fishery governed by a management plan, the goals of that plan may not be achieved. Therefore, when a fishery is open to the taking of fish and the group or groups of users whose catch determines the distribution of the harvest as set out in the applicable management plan is not taking the harvestable fish available to them, the department shall manage the fishery as if the available harvest is being taken. When determining the available harvest, the department shall consider the number of fish needed to meet spawning requirements, the number of fish present in the fishery and in spawning areas that are in excess of spawning requirements and the estimated harvesting capacity of the group or groups of users that would normally participate in the fishery.

5 AAC 39.205. Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries. Before adopting regulations that allocate fish among personal use, sport, and commercial fisheries, the board will, as appropriate to particular allocation decisions, consider factors such as those set out in AS 16.05.251(e).

5 AAC 39.210. Management plan for high impact emerging fisheries. (a) To guide management of high impact emerging commercial fisheries, a plan is needed that ensures resource conservation, minimizes impacts on existing users, and provides orderly development of new fishery resources.

(b) The department may regulate a commercial fishery as a high impact emerging commercial fishery if the commissioner determines that any of the following conditions apply to a species or species group in an area or region:

- (1) harvesting effort has recently increased beyond a low sporadic level;
- (2) interest has been expressed in harvesting the resource by more than a single user group;
- (3) the level of harvest might be approaching a level that might not be sustainable on a local or regional level;
- (4) the board has not developed comprehensive regulations to address issues of conservation, allocation, and conduct of an orderly fishery.

(c) The commissioner shall notify the board if a determination is made to manage a fishery as a high impact emerging fishery.

(d) The department shall close a high impact emerging commercial fishery once it has been designated as such by the commissioner, and may not reopen the fishery until an interim management plan and associated regulations have been adopted by the commissioner. If an interim management plan and regulations have been adopted, the commissioner may allow the fishery to continue.

(e) The department shall develop an interim management plan for each high impact emerging commercial fishery. An interim management plan shall contain at least the following information:

- (1) a review of the history of commercial exploitation of the species in Alaska and other relevant jurisdictions;
- (2) a review of the life history of the organism;

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- (3) identification of specific management goals and objectives;
- (4) an evaluation of potential impacts on existing users;
- (5) designation and justification of the preferred management measures;
- (6) an evaluation of the conservation impacts of the preferred management approach on nontarget species and on nontarget individuals of the same species;
- (7) a plan for determining the productivity of the species and impact of the fishery;
- (8) a list of proposed interim regulations;
- (9) a cost estimate for plan implementation;
- (10) an analysis of customary and traditional subsistence use patterns.

(f) The commissioner may adopt regulations and open the fishery consistent with measures identified in the interim management plan. The regulations will remain in effect until the board adopts regulations under (g) of this section.

(g) Upon completion of an interim plan, the department shall petition the board under 5 AAC 96.625 to consider adoption of the management plan and associated regulations at its next regularly scheduled meeting.

(h) The department may require onboard observers as specified in 5 AAC 39.141 and 5 AAC 39.645 on fishing vessels, catcher/processors, and floating processors that participate in high impact emerging commercial fisheries.

Article 6. Shellfish Fishery.

5 AAC 39.645. Shellfish onboard observer program. (a) The Board of Fisheries (board) finds that onboard observers provide the only effective means of collecting essential biological and management data from catcher-processor and floating processor vessels that process shellfish, and from an adequate number of catcher vessels that take shellfish in the commercial fisheries described in (d) of this section. These data are necessary to achieve the requirements set out in 16 U.S.C. 1801–1883 (Magnuson-Stevens Act) and the federal Fisheries Management Plan for Bering Sea/Aleutian Islands King and Tanner Crab, dated July 18, 1998, including the sustained yield of the shellfish resource without overfishing. The department has traditionally collected essential biological and management data at the point of shoreside landing immediately before processing. The evolution to processing by catcher-processor and floating processor vessels in particular fisheries, and the lack of an adequate number of catcher-processor vessels in particular Bering Sea and Aleutian Islands crab fisheries that are required by this section to have an onboard observer on board the vessel, has seriously eroded the department's ability to adequately monitor harvests, assess the amount and type of bycatch occurring in the fisheries, and collect biological data for inseason management. Onboard observers are the only practical data-gathering mechanism for these fisheries without unduly disrupting the operation of these fisheries.

(b) Further, the board finds that, in particular shellfish fisheries, onboard observers provide the only effective means to enforce regulations that protect the shellfish resource. The board finds that catcher-processor catch statistics have clearly demonstrated that some operators of these vessels have routinely failed to comply with king and Tanner crab size limit regulations. Without onboard observer coverage, sublegal and female crab might be taken and processed immediately, making enforcement of size and sex regulations impossible.

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(c) The cost of providing these onboard observers for catcher vessels and at-sea processors in the commercial Bering Sea and Aleutian Islands registration areas crab and special permit fisheries, excluding the Norton Sound and Kotzebue Sound Sections, will be borne by the department through the harvest and sale of crab or will be borne directly by the vessel. The costs of the observer requirements for catcher-processor vessels that retain processed crab after the close of a fishery, under 5 AAC 34.031(e)(4) and 5 AAC 35.031(c)(4), shall be borne by the vessel. In those cases, the cost for the department-approved observer shall be borne by the vessel. The department will have full authority and responsibility for deploying onboard observers on any vessel participating in the commercial Bering Sea and Aleutian Islands Area crab fisheries, or any fisheries conducted under a commissioner's permit, as necessary for fishery management and data-gathering needs. No acceptable management alternatives exist other than disallowing operation of a vessel that is required, but refuses to cooperate with an onboard observer program. The onboard observer program set out in this section is compatible with and complementary to the existing observer programs of other agencies.

(d) Based on the findings in (a) – (c) of this section, the department shall institute a mandatory onboard observer program, as follows:

(1) for all vessels that process Tanner crab, red king crab, blue king crab, or golden king crab, a department approved crab fishery onboard observer must be on board the vessel and acting in the capacity of a crab fishery onboard observer for 100 percent of the time that the vessel is acting in the capacity of a catcher-processor or a floating processor;

(2) the department shall require onboard observers for an adequate number of catcher vessels, or during the harvest of a percentage of the total harvest weight of each catcher vessel, participating in the rationalized Bering Sea/Aleutian Islands commercial crab fisheries harvesting IFQ, CDQ, or the Adak community allocation;

(3) the Bering Sea/Aleutian Islands rationalized crab fisheries where IFQ, CDQ, or the Adak community allocation are established include

(A) Registration Area O (Aleutian Islands) golden king crab, Registration Area O red king crab (west of 179° W. long.), Registration Area T (Bristol Bay) red king crab, Registration Area Q (Bering Sea) Pribilof District red and blue king crab, Registration Area Q St. Matthew Island Section of the Northern District blue king crab; and

(B) Registration Area J (Westward), Bering Sea District *C. opilio* (snow crab) and *C. bairdi* Tanner crab, excluding the Norton Sound Section;

(4) to meet catcher vessel observer coverage requirements, a department approved crab fishery onboard observer must be on board the catcher vessel and acting in the capacity of a crab onboard observer in the following registration areas during the following prescribed time periods:

(A) for Registration Area O (Aleutian Islands),

(i) during harvest of 100 percent of the total red king crab weight harvested by each catcher vessel while operating fishing gear west of 179° W. long., during each registration year;

(ii) during harvest of 50 percent of the total golden king crab weight harvested by each catcher vessel while operating fishing gear east of 174° W. long., through May 15, 2015, during each of the three trimesters dated August 15 through November 15,

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November 16 through February 15, and February 16 through May 15, during each registration year, and beginning August 1, 2015, during each of the three trimesters dated August 1 through October 31, November 1 through January 31, and February 1 through April 30, during each registration year; and

(iii) during harvest of 50 percent of the total golden king crab weight harvested by each catcher vessel while operating fishing gear west of 174° W. long., through May 15, 2015, during each of the three trimesters dated August 15 through November 15, November 16 through February 15, and February 16 through May 15, during each registration year, and beginning August 1, 2015, during each of the three trimesters dated August 1 through October 31, November 1 through January 31, and February 1 through April 30, during each registration year, and beginning August 1, 2015, during each of the three trimesters dated August 1 through October 31, November 1 through January 31, and February 1 through April 30, during each registration year;

(B) for Registration Area Q (Bering Sea),

(i) during harvest of 100 percent of the total red and blue king crab weight harvested by each catcher vessel while operating fishing gear in the Pribilof District, during each registration year; and

(ii) during harvest of 100 percent of the total blue king crab weight harvested by each catcher vessel while operating fishing gear in the St. Matthew Island Section of the Northern District, during each registration year;

(C) for Registration Area T (Bristol Bay), during harvest of 20 percent of the total red king crab weight harvested by each catcher vessel while operating fishing gear, during each registration year, or the department may randomly select 20 percent of the catcher vessels harvesting Bristol Bay red king crab to carry onboard observers for 100 percent of the fishing time of each selected catcher vessel;

(D) for Tanner crab Registration Area J (Westward), Bering Sea District,

(i) during harvest of 30 percent of the total *C. opilio* (snow crab) weight harvested by each catcher vessel while operating fishing gear, during each registration year, or the department may randomly select 30 percent of the catcher vessels harvesting Bering Sea *C. opilio* (snow crab) to carry onboard observers for 100 percent of the fishing time of each selected catcher vessel; and

(ii) during harvest of 30 percent of the total *C. bairdi* Tanner crab weight harvested on each catcher vessel while operating fishing gear during each registration year or during a period when the department randomly selects between 30 percent and 100 percent of the catcher vessels engaged in directed harvest of *C. bairdi* Tanner crab to carry on board observers for 100 percent of the fishing time of each selected catcher vessel, unless a catcher vessel harvests *C. bairdi* Tanner crab as incidental catch during directed fishing for either Bristol Bay red king crab or Bering Sea snow crab, where observer coverage requirements for those directed fisheries would apply to the Tanner crab incidental harvest;

(5) onboard observers are required for the number of catcher vessels that the department determines are adequate to participate in the non-IFQ, non-CDQ, or non-Adak community allocation commercial crab fisheries that take shellfish in the following Bering Sea/Aleutian Islands shellfish fisheries:

(A) Registration Area O (Aleutian Islands), red king crab fishery east of

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179° W. long.;

(B) Registration Area J (Eastern Aleutian and Western Aleutian Districts), Tanner crab fishery;

(C) Registration Area J (Westward), hair crab, snails, or other miscellaneous shellfish commercial fisheries that require a permit issued by the commissioner under 5 AAC 38.062;

(6) for vessels that take red or blue king crab in the Norton Sound Section of Registration Area Q, the department may require onboard observers on selected vessels;

(7) for vessels that take red or blue king crab in the Kotzebue Sound Section of Registration Area Q, the department may require onboard observers on selected vessels;

(8) the department may waive the onboard observer requirement for a vessel that processes crab at a place where a department sampler is located, if the sampler has reasonable access to the vessel and if the vessel is tied to a dock; all other vessel requirements remain in effect; the department may also waive the onboard observer requirement when an observer is taken ill or is injured while on board the vessel and is unable to function, or when in the judgment of the department the observer is unavailable despite the good faith effort of the vessel operator and for a reason that is beyond the control of the vessel operator; a request for a waiver and all supporting documentation must be submitted in writing;

(9) the department may place a representative of the department on board a processing vessel to perform tank inspections, or to verify the performance of an observer, without waiving the observer requirement.

(e) In addition to the permit requirements in 5 AAC 34.055 and 5 AAC 35.055, the permit for a vessel that processes Tanner crab, red king crab, blue king crab, or golden king crab must require that an observer, approved by the department and provided by the permittee, be briefed by the department for the fishery in which the vessel participates and that the observer be on board the vessel before the vessel obtains a tank inspection, before the vessel takes crab, and before the start of and during all processing operations. For the purposes of 5 AAC 34.055, 5 AAC 35.055, and 5 AAC 39.140, the observer is a representative of the department. All information collected by the observer is confidential property of the department. The department shall develop guidelines for approval of observers, including training requirements, conflict-of-interests standards, data collection schedules and standards, record keeping and reporting requirements, and other criteria needed to ensure accurate and objective reporting.

(f) Based on the findings in this section, it is the board's intent that a credible, fair, and enforceable observer program be implemented before the September 25, 1988 opening of the Bristol Bay red king crab fishery. Information gathered in this observer program is intended to promote both conservation and enforcement.

(g) Repealed 12/26/97.

(h) An employee or crewmember of a commercial crab catcher-processor, crab floating processor, crab catcher vessel, or scallop vessel may not be employed as a shellfish onboard observer for 12 consecutive months after the person's last day of employment on the crab catcher-processor, crab floating processor, crab catcher vessel or scallop vessel.

(i) When a vessel is required to carry an onboard observer, the vessel owner, owner's agent, or operator shall

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(1) contract and pay for onboard observers through an independent contracting agent, unless the onboard observer is provided by the department;

(2) provide at least 48 hours advance notice to the contracting agent of an observer's arrival at a department area office for debriefing;

(3) when carrying an observer trainee and within sufficient time to allow for debriefing before expiration of the trainee permit, ensure that the trainee is returned to the port where the department office responsible for management of the fishery the observer's assigned vessel participates in;

(4) provide adequate food and accommodations for the observer equal to those provided for the vessel's crew;

(5) provide to the observer daily catch information, including areas fished, number and pounds of shellfish landed, number of pots pulled by registration area, and other information specified by the department;

(6) provide a safe work area, necessary gear, opportunity, and sufficient time to allow the observer to adequately sample catch as specified by the department;

(7) ensure that the transfer of an observer between vessels is conducted in a timely manner, under safe conditions, and with the agreement of the observer involved;

(8) assure observer access to single side band (SSB) radio, fax, telex, or telephone so that catch reports from observers are received at the area management office as specified by the department;

(9) notify the observer before shellfish are brought on board to allow sampling, unless the observer specifically requests not to be notified; and

(10) provide proof of compliance with current United States Coast Guard Commercial Fishing Vessel Safety Examination requirements.

(j) An independent contracting agent that provides onboard observers under this section shall

(1) employ observers in compliance with all applicable state and federal laws and provide all necessary administrative and payroll functions for the observer employees;

(2) secure contracts directly with vessel owners and operators in pay-as-you-go fisheries;

(3) repealed 6/27/2014;

(4) provide the department with complete and legible transcripts, resumes, and other work history documents to qualify observer candidates no less than 30 days before training;

(5) provide observer training to meet certification requirements contained in 5 AAC 39.143;

(6) provide observer sampling equipment for use during training classes and at the examinations;

(7) provide all logistical support for observers, including room and board, travel to and from vessels, travel to and from the department examinations, and briefings and debriefings;

(8) assign observers to vessels without regard to requests from vessel owners and

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operators for, or for exclusion of, a specific observer; any request for, or for exclusion of, a specific observer shall be reported to the department by the contracting agent;

(9) provide, for each observer deployment, a complete set of all necessary observer sampling equipment as specified, in writing, by the department for an observer to complete a trip assignment;

(10) provide the department no less than 48 hours advance notice of an observer's scheduled arrival at the port where the department office responsible for management of the fishery the observer's assigned vessel participates in for briefings and debriefings;

(11) schedule all observer briefing and debriefing appointments directly with the department;

(12) maintain records of observers' scheduled briefing and debriefing dates, and observers' time on board a vessel to ensure compliance with maximum trip limits for trainee observers as specified in 5 AAC 39.143(c), and fully certified observers as specified in 5 AAC 39.142(a)(8);

(13) ensure that no less than 65 percent of observer deployment days per year per contractor are performed by certified observers.

(k) Repealed 6/27/2014.

(l) When a vessel is required to carry an onboard observer, an employee, operator, crewmember, officer, director, agent, owner, or shareholder of the vessel or any entity with ownership of, or management authority over, of the assigned vessel may not

(1) impede, or interfere with an observer carrying out observer duties;

(2) interfere with or bias the sampling procedure employed by an observer, including physical or mechanical interference, or sorting or discarding of catch before sampling;

(3) tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer; or

(4) harass an observer by conduct that has sexual connotations, or by conduct that creates an intimidating, hostile, or offensive environment; for the purpose of this paragraph, "harass" means words, conduct, or action that being directed at the observer, annoys, alarms, or causes emotional distress in the observer.

(m) In this section, "pay-as-you-go" means the cost of the observer is paid by the vessel operator.

5 AAC 39.646. Shellfish onboard observer trainee program qualifications and requirements. (a) To qualify as a crab or scallop onboard observer trainee, an applicant must have one of the following:

(1) a Bachelor degree in the sciences of biology, any branch of biology, or limnology; or

(2) a valid National Marine Fisheries Service observer certification; or

(3) other fisheries related education or work experience approved by the department.

(b) A crab or scallop onboard observer trainee must

(1) have the ability to use a radio for communications; and

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(2) be physically able to carry out the duties of an observer and not be incapacitated by chronic or debilitating seasickness.

(c) Before an applicant may take the certification examination, the applicant must attend a training course approved by the department that provides instruction in the following subject areas:

- (1) identification of the species and sex of all shellfish species commercially fished in waters under the jurisdiction of the state;
- (2) how to accurately read a vernier caliper and properly measure shellfish species, and to use a fixed measuring gauge to determine legal size shellfish;
- (3) organizational structure of the shellfish regulations in this title and ability to reference appropriate regulations as required;
- (4) use of a radio for communications;
- (5) identification of Pacific cod, halibut, sablefish, and other fish species commonly caught as bycatch;
- (6) department sampling procedures;
- (7) performance of observer duties similar to those performed while on board a vessel.

5 AAC 39.670. Bering Sea/Aleutian Islands Individual Fishing Quota (IFQ) Crab Fisheries Management Plan. (a) This management plan applies to the management of the seven crab fisheries rationalized by the National Marine Fisheries Service (NMFS), including the Community Development Quota and the Adak community allocation, with management authority delegated to the Department of Fish and Game as referenced in the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs.

(b) The following fisheries are covered under the management plan in this section:

- (1) Bristol Bay red king crab (BBR);
- (2) Aleutian Islands red king crab (west of 179° W. long.) (WAI);
- (3) Aleutian Islands golden king crab (east of 174° W. long.) (EAG);
- (4) Aleutian Islands golden king crab (west of 174° W. long.) (WAG);
- (5) Saint Matthew Island Section blue king crab (SMB);
- (6) Pribilof District red and blue king crab (PIK);
- (7) Bering Sea snow crab (BSS);
- (8) Bering Sea Tanner crab (east of 166° W. long.) (EBT);
- (9) Bering Sea Tanner crab (west of 166° W. long.) (WBT).

(c) The following provisions apply to the fisheries specified in this section:

(1) a vessel participating in an Individual Fishing Quota (IFQ), Community Development Quota (CDQ), or the Adak community allocation crab fishery must have on board the vessel an activated vessel monitoring system (VMS) approved by NMFS;

(2) a vessel operator who is registered for one of the fisheries listed in (b) of this section may

- (A) authorize other vessel operators who are registered for the same fishery

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to operate crab pot gear registered to that vessel; before a vessel operator may operate crab pot gear registered to another vessel, the registered operator of the pot gear must file a cooperative gear authorization form with the department authorizing other vessels to operate the crab pot gear;

(B) transfer gear operation rights and responsibilities to only one other vessel operator who is registered for that fishery and only under the following conditions:

(i) both the operator of the vessel relinquishing gear operation rights and responsibilities (relinquisher) and the vessel operator receiving those rights and responsibilities (recipient) must sign a gear operation transfer form giving the effective date and time of the transfer and the number of pots being transferred;

(ii) the gear operation transfer form must also be signed by a department representative before the pot bear transfer is valid and a copy of the gear operation transfer form bearing the original signatures of both the relinquisher and recipient vessel operator must be received by the department within 30 days of the effective date of the department representative signature; for the purposes of this subparagraph, the form must be submitted in person at the department's Dutch Harbor office, or by mail, or by facsimile;

(iii) the transfer of gear operation rights and responsibilities must occur and be validated within 14 days of the relinquishing vessel being active in the registration area where the pot gear is located;

(iv) the pot gear transfer must include all of the pot gear registered to the relinquishing vessel and that vessel's pot gear may not be split among more than one recipient vessel;

(3) each crab pot deployed must bear the ADF&G number of the vessel that initially registers the crab pot, and if deployed in a fishery with a crab pot limit, each pot must bear a buoy tag registered to the vessel registering that pot; in addition,

(A) an active vessel may collectively operate and transport crab pot gear of another registered and active vessel;

(B) when a vessel transports and deploys crab pot gear to the fishing grounds for another vessel, the vessel registered with the crab pot gear must be active in the registration area where the crab pot gear is deployed within seven days of the initial deployment;

(C) repealed 8/28/2005;

(D) a vessel's crab pot gear may not be deployed unless the vessel is actively participating in harvesting the species in the applicable area;

(E) for the purposes of this paragraph, a vessel is considered active in an area by becoming validly registered with the department and by VMS verification of the vessel in the registration area;

(F) a vessel that has completed fishing operations as specified in 5 AAC 39.675(b)(1) and (2) is not considered active in a registration area;

(G) a vessel operator who is registered for one of the fisheries listed in (b) of this section must check out with the department in Dutch Harbor or Kodiak by telephone, facsimile transmission, or electronic mail within 72 hours of operating the vessel's last pot in the registration area;

(4) no provision in this section allows an individual vessel operator to use a greater

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quantity of crab pot gear than otherwise authorized in the applicable provisions of 5 AAC 34 or 5 AAC 35;

(5) a vessel operator may harvest EBT and BBR, or WBT and BSS, concurrently, as follows:

(A) a vessel operator participating in the BBR fishery may retain EBT as incidental harvest as specified in 5 AAC 35.506(i)(2);

(B) a vessel operator participating in the BSS fishery may retain WBT as incidental harvest as specified in 5 AAC 35.506(i)(1);

(C) a vessel operator participating in the WBT fishery may retain BSS as incidental harvest as specified in 5 AAC 35.506(j);

(6) a vessel operator may have a species of king or Tanner crab from an IFQ fishery and king crab from an Adak community allocation fishery or a species of king or Tanner crab from a CDQ fishery on board the vessel at the same time; a vessel operator may not have a species of king or Tanner crab from an IFQ fishery and a species of king or Tanner crab from a non-CDQ or non-IFQ fishery on board the vessel at the same time;

(7) an operator of a vessel participating in an IFQ, CDQ, or Adak community allocation crab fishery in the Bering Sea/Aleutian Islands area must notify the United States Coast Guard at least 24 hours before departing port when carrying crab pot gear;

(8) in addition to the registration requirements specified in 5 AAC 34 and 5 AAC 35, a vessel owner, or owner's agent, shall provide satisfactory proof of a current valid United States Coast Guard Commercial Fisheries Vessel Safety Decal before a registration certificate is issued;

(9) the operator of a vessel designated at the time of registration to operate the crab pot gear of another vessel shall be considered the agent of the vessel registered to operate the crab pot gear.

Editor's note: The contact phone number for the United States Coast Guard for Kodiak, Alaska is (907) 654-5588; Unalaska/Dutch Harbor, Alaska is (907) 581-6738; Anchorage, Alaska is (907) 229-8203; and Kenai, Alaska is (907) 398-6220.

The gear operation transfer form specified in 5 AAC 39.670(c)(2) may be sent to the department office in Dutch Harbor at Department of Fish and Game, P.O. Box 920587, Dutch Harbor, AK 99692-0587; Fax (907) 581-1579.

5 AAC 39.675. Crab pot gear storage for Bering Sea/Aleutian Islands IFQ, CDQ, and Adak community allocation crab fisheries. (a) Notwithstanding any other provision of 5 AAC 34 – 5 AAC 35, king and Tanner crab pots may be stored outside of a designated storage area specified in 5 AAC 34.052 and 5 AAC 35.052 with all bait and bait containers removed and doors secured fully open for up to 14 days following the completion of fishing operations in a registration area. King and Tanner crab pots must be removed from the water or placed in long-term storage if left unattended for 14 days or longer. A vessel's registration is invalid after 14 days of inactivity in a registration area.

(b) For the purposes of this section, a vessel is considered to have completed fishing operations if the

(1) vessel operator contacts the department in Dutch Harbor to invalidate the vessel registration for that species and registration area within 72 hours of operating the last pot gear in the registration area;

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(2) pot gear belonging to that vessel is removed from the water, placed into long-term storage, or is transferred to a recipient vessel as specified in 5 AAC 39.670(c)(2).

5 AAC 39.685. Operation of other gear for Bering Sea/Aleutian Islands IFQ crab fisheries. Persons and vessels participating in the Bering Sea/Aleutian Islands IFQ crab fisheries are exempt from the requirements specified in 5 AAC 34.053(1), 5 AAC 35.053(1), and 5 AAC 34.628.

5 AAC 39.690. Bering Sea/Aleutian Islands King and Tanner Crab Community Development Quota (CDQ) Fisheries Management Plan. (a) Male red, blue, and golden king crab and male Tanner crab may be taken in a Bering Sea/Aleutian Islands CDQ fishery only under the conditions of a permit issued by the commissioner. In Registration Area O, west of 174° W. long., male golden king crab may only be taken under the conditions of a permit issued by the commissioner for the community of Adak. The community of Adak golden king crab allocation will be managed under the CDQ regulations specified in this section. Female crab of these species may not be taken.

(b) In the Bering Sea/Aleutian Islands CDQ fishery,

(1) male golden king crab may only be taken in Registration Area O as described in 5 AAC 34.600 and male red king crab may only be taken in that portion of Registration Area O west of 179° W. long. as described in 5 AAC 34.600;

(2) male red king crab may be taken only in Registration Area T as described in 5 AAC 34.800, and male red and blue king crab may be taken in Registration Area Q as described in 5 AAC 34.900; and

(3) male Tanner crab may be taken only in the Bering Sea District of Registration Area J as described in 5 AAC 35.505(e).

(c) Male king crab and male Tanner crab may be taken only with pots.

(d) Unless otherwise specified in a permit issued under (e) of this section, an operator of a vessel fishing CDQ crab allocations shall comply with all regulations in 5 AAC 34, 5 AAC 35, and 5 AAC 39 that are applicable to the area and species of crab being fished.

(e) In the permit required in (a) of this section the commissioner may, as the commissioner determines it necessary for the conservation and management of the resource,

(1) specify the species of king or Tanner crab that may be taken;

(2) specify an area or areas open to CDQ fishing operations;

(3) specify registration requirements;

(4) specify fishing periods;

(5) specify gear requirements, including the numbers of pots;

(6) designate the poundage of the federal CDQ allocation of a species of king or Tanner crab that may be taken by a CDQ group in a registration area or portion of a registration area as follows:

(A) a CDQ fishery allocation is specified in the federal Fishery Management Plan for Bering Sea/Aleutian Islands king and Tanner crab;

(B) in the Norton Sound Section, the department shall calculate a CDQ fishery allocation, in pounds, based on the percentage of the total anticipated harvest for the commercial fishery and the CDQ fishery, combined;

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(C) the department shall calculate the poundage of king or Tanner crab, as specified in the federal CDQ allocation determination that may be taken by each CDQ group;

(D) a person operating a vessel in a CDQ fishery may not exceed the CDQ group allocation specified in this paragraph; a CDQ crab that retains crab in excess of the CDQ group allocation may have quota voluntarily transferred to that CDQ group from another eligible CDQ group with excess quota no later than June 30 of the current allocation year; if a CDQ group is unable to obtain quota for the excess crab, the crab shall be weighed, sold, and reported on an ADF&G fish ticket and all proceeds from the sale of CDQ crab in excess of the group allocation shall be surrendered to the state;

(7) except in the Norton Sound Section, a CDQ fishery for a king or Tanner crab species will open and close concurrent with the IFQ fishery for that species of king or Tanner crab;

(8) require onboard observers during fishing operations;

(9) require the operator of a vessel fishing CDQ crab allocations to notify the department of fishing time, delivery time, and delivery destination;

(10) establish reporting requirements;

(11) require logbooks;

(12) establish times and areas allowed for placement and removal of gear;

(13) establish times, areas, and conditions allowed for storage of gear;

(14) set out other conditions deemed necessary by the commissioner.

(f) A permit issued under (e) of this section will be considered the registration required by 5 AAC 34.020 or 5 AAC 35.020.

(g) Notwithstanding 5 AAC 34.005 and 5 AAC 35.005, participation by a CDQ permit holder in an exclusive or superexclusive king or Tanner crab fishery does not preclude a vessel or permit holder from participation in a CDQ crab fishery.

(h) Notwithstanding 5 AAC 34.005 and 5 AAC 35.005, participation by a CDQ permit holder in a CDQ king or Tanner crab fishery does not preclude a vessel or permit holder from participation in an exclusive or superexclusive crab fishery.

(i) Except in the Norton Sound Section, a vessel participating in a CDQ crab fishery must have on board the vessel an activated vessel monitoring system (VMS) approved by the National Marine Fisheries Service.

Editor's note: Copies of the federal Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crab, dated July 18, 1998 are available at the office of the North Pacific Fisheries Management Council at 605 West Fourth Avenue, Room 306, Anchorage, Alaska 99501-2252.

Article 9. Definitions; Miscellaneous.

5 AAC 39.975. Definitions. In 5 AAC 01 – 5 AAC 39,

(1) "**alien**" means a person who is not a citizen of the United States, and who does not have a petition for naturalization pending before the district court;

(2) "**bag limit**" means the maximum legal take per person per day, even if part or all of the fish are preserved;

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(3) **"buyer"** means a person who purchases fish from the fishermen who caught the fish or who, for commercial purposes, processes fish he has caught himself;

(4) **"depth of net"** means the perpendicular distance between cork line and lead line expressed as either linear units of measure or as a number of meshes, including all of the web of which the net is composed;

(5) repealed 2/18/73;

(6) **"gear"** means any type of fishing apparatus;

(7) **"inclusive season dates"** means whenever the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time thereby indicated includes both dates specified; the first date specified designates the first day of the period, and the second date specified designates the last day of the period;

(8) **"legal limit of fishing gear"** means the maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats in any particular regulatory area, district or section;

(9) **"local representative of the department"** means the nearest, most accessible professional employee of the department, a person designated by the commissioner or by a professional employee of the department to perform a specific function for the department and a law enforcement officer of the Department of Public Safety;

(10) **"salmon stream"** means a stream used by salmon, at any stage of life, for spawning, rearing, presence, or migration;

(11) **"stretched measure"** means the average length of any series of 10 consecutive meshes measured from inside the first knot and including the last knot when wet; the 10 meshes, when being measured, shall be an integral part of the net, as hung, and measured perpendicular to the selvages; measurements shall be made by means of a metal tape measure while the 10 meshes being measured are suspended vertically from a single peg or nail, under five-pound weight, except as otherwise provided in this title;

(12) repealed 6/30/79;

(13) **"waters of Alaska"** means the internal waters of the state including rivers, streams, lakes and ponds, the tidal zone of the state from mean higher high water to mean lower low water, and those waters extending three miles seaward of a line (the baseline) between the following points: (A) – (E)

Editor's note: A copy of the point by point definition of the baseline is available at local offices of ADF&G.

(F) and extending three miles seaward of all islands not enclosed by the above line;

(14) **"salmon stream terminus"** means a line drawn between the seaward extremities of the exposed tideland banks of any salmon stream at mean lower low water;

(15) repealed 8/14/70;

(16) **"ton"** means 2,000 pounds avoirdupois weight;

(17) **"king crab"** means any or all of the following species:

(A) *Paralithodes camtschaticus* (red king crab);

(B) *Paralithodes platypus* (blue king crab);

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- (C) *Lithodes couesi*;
 - (D) *Lithodes aequispinus* (golden king crab);
 - (E) *Paralithodes brevipes* (Hanasaki king crab);
- (18) "**Tanner crab**" means any or all of the following species:
- (A) *Chionoecetes opilio* (snow crab);
 - (B) *Chionoecetes tanneri* (grooved Tanner crab);
 - (C) *Chionoecetes bairdi* (Tanner crab);
 - (D) *Chionoecetes angulatus* (triangle Tanner crab);
- (19) "**Dungeness crab**" means the species *Cancer magister*;
- (20) "**household**" means a person or persons having the same residence;
- (21) "**groundfish**" or "**bottomfish**" means any marine finfish except halibut, osmerids, herring, and salmonids;
- (22) "**to operate fishing gear**" means
- (A) the deployment of gear or to have gear deployed in the waters of Alaska;
 - (B) the removal of gear from the waters of Alaska;
 - (C) the removal of fish or shellfish from the gear during an open season or period; or
 - (D) possession of a gillnet containing fish during an open fishing period, except that a net which is completely clear of the water is not considered to be operating for the purpose of minimum distance requirements;
- (23) "**possession limit**" means the maximum number of fish a person may have in his possession if the fish have not been canned, salted, frozen, smoked, dried or otherwise preserved so as to be fit for human consumption after a 15-day period;
- (24) "**hung measure**" means the maximum length of the cork line when measured wet or dry with traction applied at one end only;
- (25) "**drainage**" means all of the waters comprising a watershed, including tributary rivers, streams, sloughs, ponds and lakes which contribute to the supply of the watershed;
- (26) "**fresh water of streams and rivers**" means fresh water separated from salt water at the mouth of streams and rivers by a line drawn between the seaward extremities of the exposed tideland banks at the present stage of the tide;
- (27) "**guideline harvest level**" means the preseason estimated level of allowable fish harvest which will not jeopardize the sustained yield of the fish stocks; an area, district, section or portion thereof may close to fishing before or after the guideline harvest level has been reached if principles of management and conservation dictate such action;
- (28) "**peace officer of the state**" means a person defined in AS 16.05.150;
- (29) "**processing**" means completion of
- (A) cooking;
 - (B) canning;

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- (C) smoking;
- (D) salting, which means uniformly mixing with a minimum salting level of at least 20 percent of the weight of the fish resources;
- (E) drying; or
- (F) freezing, which means to congeal and solidify the flesh of fish by abstraction of heat;

(30) "**domicile**" means the same as in AS 16.05.940(9); evidence of a person's domicile may include, but is not limited to, the following:

(A) statements made to obtain a license to drive, hunt, fish, or engage in an activity regulated by a government entity;

(B) affidavit of the person, or of other persons who may know of that person's domicile;

(C) place of voter registration;

(D) location of residences owned, rented, or leased;

(E) location of storage of household goods;

(F) location of business owned or operated;

(G) residence of spouse and minor children or dependents;

(H) governments to which taxes are paid;

(I) whether the person has claimed residence in another location for the purpose of obtaining benefits provided by the governments in that location;

(31) "**fishing site**" means a structure or vessel used by a CFEC permit holder for providing shelter in support of the operation of stationary net gear;

(32) "**net gear site**" means the in-water location of stationary net gear;

(33) "**seine vessel**" means the largest vessel, as determined by keel length, used to operate a seine and the vessel from which the seine is set, and to which the seine is retrieved to;

(34) "**demersal shelf rockfish**" means any or all of the following *Sebastes* species:

(A) repealed 4/30/91;

(B) *S. pinniger* (Canary);

(C) *S. nebulosus* (China);

(D) *S. caurinus* (Copper);

(E) *S. maliger* (Quilback);

(F) repealed 4/30/91;

(G) *S. helvomaculatus* (Rosethorn);

(H) repealed 4/30/91;

(I) *S. nigrocinctus* (Tiger);

(J) *S. ruberrimus* (Yelloweye);

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(K) repealed 4/4/97;

(35) **"onboard observer"** means a representative of the Departments of Fish and Game or Public Safety who

(A) is certified by the Department of Fish and Game as having completed minimum training requirements;

(B) is living on board a fishing or processing vessel for all or part of the period the vessel is at sea; and

(C) is monitoring fishing or processing activities and collecting harvest data essential to management and enforcement;

(36) **"rockfish"** means all species of the genus *Sebastes*;

(37) **"pelagic shelf rockfish"** means any or all of the following *Sebastes* species:

(A) *S. ciliatus* (Dark);

(B) *S. entomelas* (Widow);

(C) *S. flavidus* (Yellowtail);

(D) *S. melanops* (Black);

(E) *S. mystinus* (Blue);

(F) *S. variabilis* (Dusky);

(38) **"slope rockfish"** means any species of the genus *Sebastes* not specified as either demersal shelf rockfish or pelagic shelf rockfish;

(39) **"thornyhead rockfish"** or **"idiot rockfish"** means all species of the genus *Sebastes*;

(40) **"weathervane scallop"** means the species *Patinopecten caurinus*;

(41) **"mile"** means

(A) a nautical mile when used in reference to marine waters;

(B) a statute mile when used in reference to fresh water;

(42) **"miscellaneous shellfish"** means all shellfish and marine invertebrates, except shrimp, and king, Tanner, and Dungeness crab;

(43) **"total allowable catch"** or **"TAC"** means the annual harvest quota or the retainable catch allowed for a species or species group;

(44) **"individual fishing quota"** or **"IFQ"** means the annual allocation of pounds for harvest that represents a quota share holder's percentage of the total allowable catch;

(45) **"handicraft"** means a finished product in which the shape or appearance of the natural material has been substantially changed by skillful use of the hands, such as by sewing, carving, etching, scrimshawing, painting, or other means, and which has substantially greater monetary and aesthetic value than the unaltered natural material alone.

5 AAC 39.995. Water depth. Unless otherwise specified, water depths in 5 AAC 01 – 5 AAC 39 are to be measured from mean lower low water.

5 AAC 39.997. Abbreviations and symbols. (a) The abbreviations a.m. and p.m. indicate antemeridian and postmeridian respectively for either Standard Time or Daylight Saving

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Time in conformance with the official time in use for Alaska.

(b) The symbols °, ', ", indicate degrees, minutes, and seconds, respectively, of longitude or latitude, based upon the North American datum of 1983.

(c) Lat. and long. indicate latitude and longitude, respectively.

(d) E. indicates east, N. indicates north, W. indicates west, and S. indicates south. All bearings and directions shall be construed to be true bearings and true directions.

(e) ADF&G is the abbreviation for Alaska Department of Fish and Game.

(f) CFEC is the abbreviation for the Commercial Fisheries Entry Commission.

5 AAC 39.998. Petition policy for Category 2 management measures in a Bering Sea/Aleutian Islands king or Tanner crab fishery. The Board of Fisheries recognizes that in rare instances, circumstances may require regulatory changes outside the process described in 5 AAC 96.625(b) – (d). Notwithstanding 5 AAC 96.625(f), a petition for a regulatory change may be submitted under this section and 5 AAC 96.625(a) for a Category 2 management measure in a Bering Sea/Aleutian Islands king or Tanner crab fishery described in the federal Fishery Management Plan (FMP) for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands dated January 24, 1989. It is the policy of the Board of Fisheries that a petition submitted under this section will be denied and not scheduled for hearing unless the petition

(1) addresses a Category 2 management measure and is filed within 30 days from the date that the board adopted that Category 2 management measure;

(2) presents an issue that is not solely allocative; and

(3) presents new legal, biological, or management information that indicates the regulation may not be consistent with the federal FMP.

Editor's note: Copies of the federal Fishery Management Plan (FMP) for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands dated January 24, 1989 are available from the Office of the North Pacific Fisheries Management Council at 605 West Fourth Avenue, Room 306, Anchorage, Alaska, or by writing to the council at P.O. Box 103136, Anchorage, Alaska 99510-3136.

5 AAC 39.999. Policy for changing board agenda. (a) The Board of Fisheries (board) will, in its discretion, change its schedule for consideration of proposed regulatory change in response to an agenda change request, submitted on a form provided by the board, in accordance with the following guidelines:

(1) the board will accept an agenda change request only

(A) for a fishery conservation purpose or reason;

(B) to correct an error in a regulation; or

(C) to correct an effect on a fishery that was unforeseen when a regulation was adopted;

(2) the board will not accept an agenda change request that is predominantly allocative in nature in the absence of new information found by the board to be compelling;

(3) the board will consider an agenda change request only at its first meeting in the fall, a request must be received by the executive director of the board at least 60 days before the first meeting in the fall.

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(b) The board will, in its discretion, change its schedule for consideration of proposed regulatory changes as reasonably necessary for coordination of state regulatory actions with federal fishery agencies, programs or laws.

(c) If the board, accepts an agenda change request under this section, the executive director shall notify the public and the department of the change in the board's schedule and when the board will consider the proposed regulatory change requested.

Chapter 96. Local Fish and Game Advisory Committees and Regional Fish and Game Councils.

Article 5. Adoption of Fish and Game Regulations.

5 AAC 96.625. Joint board petition policy. (a) Under AS 44.62.220, an interested person may petition an agency, including the Boards of Fisheries and Game, for the adoption, amendment, or repeal of a regulation. The petition must clearly and concisely state the substance or nature of the regulation, amendment, or repeal requested, the reason for the request, and must reference the agency's authority to take the requested action. Within 30 days after receiving a petition, a board will deny the petition in writing, or schedule the matter for public hearing under AS 44.62.190 – 44.62.210, which require that any agency publish legal notice describing the proposed change and solicit comment for 30 days before taking action. AS 44.62.230 also provides that if the petition is for an emergency regulation, and the agency finds that an emergency exists, the agency may submit the regulation to the lieutenant governor immediately after making the finding of emergency and putting the regulation into proper form.

(b) Fish and game regulations are adopted by the Alaska Board of Fisheries and the Alaska Board of Game. At least twice annually, the boards solicit regulation changes. Several hundred proposed changes are usually submitted to each board annually. The Department of Fish and Game compiles the proposals and mails them to all fish and game advisory committees and to other interested individuals.

(c) Copies of all proposals are available at local Department of Fish and Game offices and on the boards support section's website. When the proposal books are available, the advisory committees hold public meetings in the communities and regions they represent, to gather local comment on the proposed changes. Finally, the boards convene public meetings, which have lasted as long as six weeks, taking department staff reports, public comment, and advisory committee reports before voting in public session on the proposed changes.

(d) The public has come to rely on this regularly scheduled participatory process as the basis for changing fish and game regulations. Commercial fishermen, processors, guides, trappers, hunters, sport fishermen, subsistence fishermen, and others plan business and recreational ventures around the outcome of these public meetings.

(e) The Boards of Fisheries and Game recognize the importance of public participation in developing management regulations, and recognize that public reliance on the predictability of the normal board process is a critical element in regulatory changes. The boards find that petitions can detrimentally circumvent this process and that an adequate and more reasonable opportunity for public participation is provided by regularly scheduled meetings.

(f) The Boards of Fisheries and Game recognize that in rare instances circumstances may require regulatory changes outside the process described in (b) – (d) of this section.

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Except for petitions dealing with subsistence hunting or subsistence fishing, which will be evaluated on a case-by-case basis under the criteria in 5 AAC 96.615(a), it is the policy of the boards that a petition will be denied and not scheduled for hearing unless the problem outlined in the petition justifies a finding of emergency. In accordance with state policy expressed in AS 44.62.270, emergencies will be held to a minimum and are rarely found to exist. In this section, an emergency is an unforeseen, unexpected event that either threatens a fish or game resource, or an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future.

SELECTED STATE STATUTES

SELECTED ALASKA STATUTES

Title 16. Fish and Game.

Chapter 05. Fish and Game Code and Definitions.

Sec. 16.05.050. Powers and duties of the commissioner. The commissioner has, but not by way of limitation, the following powers and duties:

(1) through the appropriate state agency and under the provisions of AS 36.30 (State Procurement Code), to acquire by gift, purchase, or lease, or other lawful means, land, buildings, water, rights-of-way, or other necessary or proper real or personal property when the acquisition is in the interest of furthering an objective or purpose of the department or state;

(2) under provisions of AS 36.30, to design and construct hatcheries, pipelines, rearing ponds, fishways, and other projects beneficial for the fish and game resources of the state;

(3) to accept money from any person under conditions requiring the use of the money for specific purposes in the furtherance of the protection, rehabilitation, propagation, preservation, or investigation of the fish and game resources of the state or in settlement of claims for damages to fish or game resources;

(4) to collect, classify, and disseminate statistics, data and information that, in the commissioner's discretion, will tend to promote the purposes of this title except AS 16.51 and AS 16.52;

(5) to take, capture, propagate, transport, buy, sell, or exchange fish or game or eggs for propagating, scientific, public safety, or stocking purposes;

(6) under the provisions of AS 36.30, to provide public facilities where necessary or proper to facilitate the taking of fish or game, and to enter into cooperative agreements with any person to effect them;

(7) to exercise administrative, budgeting, and fiscal powers;

(8) under the provisions of AS 36.30, to construct, operate, supervise, and maintain vessels used by the department;

(9) to authorize the holder of an interim-use permit under AS 16.43 to engage on an experimental basis in commercial taking of a fishery resource with vessel, gear, and techniques not presently qualifying for licensing under this chapter in conformity with standards established by the Alaska Commercial Fisheries Entry Commission;

(10) not later than January 31 of each year, to provide to the commissioner of revenue the names of those fish and shellfish species that the commissioner of fish and game designates as developing commercial fish species for that calendar year; a fish or shellfish species is a developing commercial fish species if, within a specified geographical region,

(A) the optimum yield from the harvest of the species has not been reached;

(B) a substantial portion of the allowable harvest of the species has been allocated to fishing vessels of a foreign nation; or

(C) a commercial harvest of the fish species has recently developed;

(11) to initiate or conduct research necessary or advisable to carry out the purposes of this title except AS 16.51 and AS 16.52;

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(12) to enter into cooperative agreements with agencies of the federal government, educational institutions, or other agencies or organizations, when in the public interest, to carry out the purposes of this title except AS 16.51 and AS 16.52;

(13) to implement an on-board observer program authorized by the Board of Fisheries under AS 16.05.251(a)(13); implementation

(A) must be as unintrusive to vessel operations as practicable; and

(B) must make scheduling and scope of observers' activities as predictable as practicable;

(14) to sell fish caught during commercial fisheries test fishing operations;

(15) to establish and charge fees equal to the cost of services provided by the department, including provision of public shooting ranges, broodstock and eggs for private nonprofit hatcheries, department publications, and other direct services, and reasonable fees for the use of state facilities managed by the department; fees established under this paragraph for the use of hatchery facilities, commercial use of sport fishing access sites, and for operation of state hatchery facilities as private aquaculture association, are not subject to cost limit under AS 37.10.050(a);

(16) to permit and regulate aquatic farming in the state in a manner that ensures the protection of the state's fish and game resources and improves the economy, health, and well-being of the citizens of the state;

(17) to operate state housing and facilities for employees, contractors, and others in support of the department's responsibilities and to charge rent that is consistent with applicable collective bargaining agreements, or, if no collective bargaining agreement is applicable, competitive with market conditions; rent received from tenants shall be deposited in the general fund;

(18) to petition the Alaska Commercial Fisheries Entry Commission, unless the Board of Fisheries disapproves the petition under AS 16.05.251(g), to establish a moratorium on new entrants into commercial fisheries

(A) that have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(B) that have achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(C) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery;

(19) to promote fishing, hunting, and trapping and preserve the heritage of fishing, hunting, and trapping in the state.

(b) The commissioner shall annually submit a report to the Board of Game regarding the department's implementation during the preceding three years of intensive management programs that have been established by the board under AS 16.05.255 for identified big game prey populations.

Sec. 16.05.055. On-board observer program. (a) The commissioner may enter into appropriate contracts and agreements with agencies, such as the National Marine Fisheries Service, the North Pacific Fishery Management Council, and the International Pacific

SELECTED STATE STATUTES

Halibut Commission, designed to ensure that on-board observer programs conducted in the fisheries of the state are coordinated and consistent with each other for vessels operating in state and federal water.

(b) The master of a vessel, as a condition of participating in a fishery for which an on-board observer program is authorized by the Board of Fisheries under AS 16.05.251, shall consent in writing to the placement of an observer aboard the vessel.

Sec. 16.05.060. Emergency orders. (a) This chapter does not limit the power of the commissioner or an authorized designee, when circumstances require, to summarily open or close seasons or areas or to change weekly closed periods on fish or game by means of emergency orders.

(b) The commissioner or an authorized designee may, under criteria adopted by the Board of Fisheries, summarily increase or decrease sport fish bag limits or modify methods of harvest for sport fish by means of emergency orders.

(c) An emergency order has the force and effect of law after field announcement by the commissioner or an authorized designee. An emergency order adopted under this section is not subject to the AS 44.62 (Administrative Procedure Act).

Sec. 16.05.065. Application extension. (a) The commissioner shall extend the time and dates during which application may be made for fish or game registration if the commissioner finds that

(1) the conservation and management of the fish or game resource will not be affected adversely; and

(2) the failure to timely apply is the result of excusable neglect.

(b) The fee for an extension granted under this section is \$45.

(c) As used in this section, "excusable neglect" does not include unfamiliarity with or ignorance of applicable laws and regulations. In order to show excusable neglect, a person must have demonstrated, before the registration deadline, an intent to harvest fish or game.

Sec. 16.05.070. Regulations as evidence. Regulations of a board and of the commissioner, including emergency openings and closures, are admissible as evidence in the courts of the state in accordance with AS 44.62 (Administrative Procedure Act).

Sec. 16.05.080. Limitation of power. Nothing in this chapter authorizes the department or a board to change the amount of fees or licenses.

Sec. 16.05.100. Fish and game fund established. There is created a revolving fish and game fund, which shall be used exclusively for the following:

(1) to carry out the purposes and provisions of this title, except AS 16.51 and AS 16.52, or other duties that may be delegated by the legislature to the commissioner or the department;

(2) to pay the principal of and interest on revenue bonds issued under AS 37.15.765 – 37.15.799 to finance the construction and renovation of fisheries rehabilitation, enhancement, and development projects that benefit sport fishing; and

(3) to carry out such purposes and objectives within the scope of this title except AS 16.51 and AS 16.52 as may be directed by the donor of any such funds.

Sec. 16.05.150. Enforcement authority. The following persons are peace officers of the

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state and they shall enforce this title except AS 16.51 and AS 16.52:

- (1) an employee of the department authorized by the commissioner;
- (2) a police officer in the state;
- (3) any other person authorized by the commissioner.

Sec. 16.05.160. Duty to arrest. Each peace officer designated in AS 16.05.150 shall arrest a person violating a provision of this title except AS 16.51 and AS 16.52, or any regulation adopted under this title except AS 16.51 and AS 16.52, in the peace officer's presence or view, and shall take the person for examination or trial before an officer or court of competent jurisdiction unless in the judgment of the peace officer it would be in the state's best interest to issue a warning or a citation under AS 16.05.165.

Sec. 16.05.165. Form and issuance of citation. (a) When a peace officer stops or contacts a person concerning a violation of this title except AS 16.51 and AS 16.52 or of a regulation adopted under this title except AS 16.51 and AS 16.52 that is a misdemeanor, the peace officer may, in the officer's discretion, issue a citation to the person as provided in AS 12.25.175 – 12.25.230.

(b) The supreme court shall specify by rule or order those misdemeanors that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. Before establishing or amending the schedule of bail amounts required by this subsection, the supreme court shall appoint and consult with an advisory committee consisting of two law enforcement officers of the Department of Public Safety engaged in fish and wildlife protection, two representatives of the Department of Fish and Game, two district court judges, and the chairpersons of the House and Senate Judiciary Committees of the legislature. The maximum bail amount for an offense may not exceed the maximum fine specified by law for that offense. If the misdemeanor for which the citation is issued may be disposed of without court appearance, the issuing peace officer shall write on the citation the amount of bail applicable to the violation.

(c) If a person cited for a misdemeanor for which a bail amount has been established under (b) of this section does not contest the citation, the person may, on or before the 30th day after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer

- (1) the amount of bail indicated on the citation for that offense; and
- (2) a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered and the bail is forfeited.

(d) When bail has been forfeited under (c) of this section, a judgment of conviction shall be entered. Forfeiture of bail and all seized items is a complete satisfaction for the misdemeanor. The clerk of the court accepting the bail shall provide the offender with a receipt stating that fact if requested.

(e) A person cited under this section is guilty of failure to obey a citation under AS 12.25.230 if the person fails to pay the bail amount established under (b) of this section or fails to appear in court as required.

(f) Notwithstanding other provisions of law, if a person cited for a misdemeanor for which a bail amount has been established under (b) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed the bail amount for that offense established under (b) of this section.

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Sec. 16.05.170. Power to execute warrant. Each peace officer designated in AS 16.05.150 may execute a warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of this title except AS 16.51 and AS 16.52, and may, with a search warrant, search any place at any time. The judge of a court having jurisdiction may, upon proper oath or affirmation showing probable cause, issue a warrant in all cases.

Sec. 16.05.180. Power to search without warrant. Each peace officer designated in AS 16.05.150 may without a warrant search any thing or place if the search is reasonable or is not protected from searches and seizures without warrant within the meaning of art. I, Sec. 14, Alaska State Constitution, which specifically enumerates "persons, houses and other property, papers and effects." However, before a search without warrant is made a signed written statement by the person making the search shall be submitted to the person in control of the property or object to be searched, stating the reason the search is being conducted. A written receipt shall be given by the person conducting the search for property which is taken as a result of the search. The enumeration of specific things does not limit the meaning of words of a general nature.

Sec. 16.05.190. Seizure and disposition of equipment. Guns, traps, nets, fishing tackle, boats, aircraft, automobiles or other vehicles, sleds, and other paraphernalia used in or in aid of a violation of this chapter or a regulation of the department may be seized under a valid search, and all fish and game, or parts of fish and game, or nests or eggs of birds, taken, transported, or possessed contrary to the provisions of this chapter or a regulation of the department shall be seized by any peace officer designated in AS 16.05.150. Upon conviction of the offender or upon judgment of the court having jurisdiction that the item was taken, transported, or possessed in violation of this chapter or a regulation of the department, all fish and game, or parts of them are forfeited to the state and shall be disposed of as directed by the court. If sold, the proceeds of the sale shall be transmitted to the proper state officer for deposit in the general fund. Guns, traps, nets, fishing tackle, boats, aircraft, or other vehicles, sleds, and other paraphernalia seized under the provisions of this chapter or a regulation of the department, unless forfeited by order of the court, shall be returned, after completion of the case and payment of the fine, if any.

Sec. 16.05.195. Forfeiture of equipment. (a) Guns, traps, nets, fishing gear, vessels, aircraft, other motor vehicles, sleds, and other paraphernalia or gear used in or in aid of a violation of this title or AS 08.54, or regulation adopted under this title or AS 08.54, and all fish and game or parts of fish and game or nests or eggs of birds taken, transported or possessed contrary to the provisions of this title, or regulation adopted under it, may be forfeited to the state

(1) upon conviction of the offender in a criminal proceeding of a violation of this title in a court of competent jurisdiction; or

(2) upon judgment of a court of competent jurisdiction in a proceeding in rem that an item specified above was used in or in aid of a violation of this title or a regulation adopted under it.

(b) Items specified in (a) of this section may be forfeited under this section regardless of whether they were seized before instituting the forfeiture action.

(c) An action for forfeiture under this section may be joined with an alternative action for damages brought by the state to recover damages for the value of fish and game or parts of them or nests or eggs of birds taken, transported or possessed contrary to the provisions of this title or a regulation adopted under it.

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(d) It is no defense that the person who had the item specified in (a) of this section in possession at the time of its use and seizure has not been convicted or acquitted in a criminal proceeding resulting from or arising out of its use.

(e) Forfeiture may not be made of an item subsequently sold to an innocent purchaser in good faith. The burden of proof as to whether the purchaser purchased the item innocently and in good faith shall be on the purchaser.

(f) An item forfeited under this section shall be disposed of at the discretion of the department. Before the department disposes of an aircraft it shall consider transfer of ownership of the aircraft to the Alaska Wing, Civil Air Patrol.

Sec. 16.05.200. Power to administer oaths. Each peace officer designated in AS 16.05.150 may administer to or take from any person, an oath, affirmation, or affidavit when it is for use in a prosecution or proceeding under or in the enforcement of this chapter.

Sec. 16.05.221. Boards of fisheries and game. (a) For purposes of the conservation and development of the fishery resources of the state, there is created the Board of Fisheries composed of seven members appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The governor shall appoint each member on the basis of interest in public affairs, good judgment, knowledge, and ability in the field of action of the board, and with a view to providing diversity of interest and points of view in the membership. The appointed members shall be residents of the state and shall be appointed without regard to political affiliation or geographical location of residence. The commissioner is not a member of the Board of Fisheries, but shall be ex official secretary.

(b) For purposes of the conservation and development of the game resources of the state, there is created a Board of Game composed of seven members appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The governor shall appoint each member on the basis of interest in public affairs, good judgment, knowledge, and ability in the field of action of the board, and with a view to providing diversity of interest and points of view in the membership. The appointed members shall be residents of the state and shall be appointed without regard to political affiliation or geographical location of residence. The commissioner is not a member of the Board of Game, but shall be ex officio secretary.

(c) Members of the Board of Game serve staggered terms of three years and, except as provided in AS 39.05.080(4), each member serves until a successor is appointed. An appointment to fill a vacancy in the membership of the Board of Game shall be made in the same manner as the original appointment and, except as provided in AS 39.05.080(4), an appointment to fill a vacancy is for the balance of the unexpired term.

(d) Members of the Board of Fisheries serve staggered terms of three years. The terms of members of the board begin on July 1. Notwithstanding AS 39.05.080(1), by April 1 of the calendar year in which the term expires, the governor shall appoint a person to fill the vacancy that will arise on the board due to expiration of the term of a member of the board and submit the name of the person to the legislature for confirmation. If a vacancy arises on the board, the governor shall, within 30 days after the vacancy arises, appoint a person to serve the balance of the unexpired term and submit the name of the person to the legislature for confirmation. A person appointed to fill the balance of an unexpired term shall serve on the board from the date of the appointment until the earlier of the expiration of the term or the failure of the legislature to confirm the person under AS 39.05.080.

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Sec. 16.05.241. Powers excluded. The boards have regulation-making powers as set out in this chapter, but do not have administrative, budgeting, or fiscal powers.

Sec. 16.05.251. Regulations of the Board of Fisheries. (a) The Board of Fisheries may adopt regulations it considers advisable in accordance with the AS 44.62 (Administrative Procedure Act) for

(1) setting apart fish reserve areas, refuges, and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of fish; if consistent with resource construction and development goals, the board may adopt regulations establishing restricted seasons and areas necessary for

(A) persons 60 years of age and older to participate in sport, personal use, or subsistence fisheries; or

(B) persons under 16 years of age to participate in sport fishing;

(3) setting quotas, bag limits, harvest levels, and sex and size limitations on the taking of fish;

(4) establishing the means and methods employed in the pursuit, capture, and transport of fish;

(5) establishing marking and identification requirements for means used in pursuit, capture, and transport of fish;

(6) classifying as commercial fish, sport fish, guided sport fish, personal use fish, subsistence fish, or predators or other categories essential for regulatory purposes;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation, and stocking of fish;

(8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;

(9) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;

(10) establishing seasons, areas, quotas and methods of harvest for aquatic plants;

(11) establishing the times and dates during which the issuance of fishing licenses, permits, and registrations and the transfer of permits and registrations between registration areas is allowed; however this paragraph does not apply to permits issued or transferred under AS 16.43;

(12) regulating commercial, sport, guided sport fish, subsistence, and personal use fishing as needed for the conservation, development, and utilization of fisheries;

(13) requiring, in a fishery, observers on board fishing vessels, as defined in AS 16.05.475(d), that are registered under the laws of the state, as defined in AS 16.05.475(c), after making a written determination that an on-board observer program

(A) is the only practical data-gathering or enforcement mechanism for that fishery;

(B) will not unduly disrupt the fishery;

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(C) can be conducted at a reasonable cost; and

(D) can be coordinated with observer programs of other agencies, including the National Marine Fisheries Service, North Pacific Fishery Management Council, and the International Pacific Halibut Commission;

(14) establishing nonexclusive, exclusive, and superexclusive registration and use areas for regulating commercial fishing;

(15) regulating resident or nonresident sport fishermen as needed for the conservation, development, and utilization of fishing resources;

(16) requiring unlicensed fishing vessels present in or transiting the waters of the state to report to the department the quantity, species, and origin of fish on board; in this paragraph, "unlicensed fishing vessel" means a fishing vessel that is not licensed under AS 16.05.490 – 16.05.530;

(17) promoting fishing and preserving the heritage of fishing in the state.

(b) Repealed 1986.

(c) If the Board of Fisheries denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor's petition or proposal, or 30 days after receiving the request for explanation, whichever is later.

(d) Regulations adopted under (a) of this section must, consistent with sustained yield and the provisions of AS 16.05.258, provide a fair and reasonable opportunity for the taking of fishery resources by personal use, sport, and commercial fishermen.

(e) The Board of Fisheries may allocate fishery resources among personal use, sport, guided sport, and commercial fisheries. The board shall adopt criteria for the allocation of fishery resources and shall use the criteria as appropriate to particular allocation decisions. The criteria may include factors such as

(1) the history of each personal use, sport, guided sport, and commercial fishery;

(2) the number of residents and nonresidents who have participated in each fishery in the past and the number of residents and nonresidents who can reasonably be expected to participate in the future;

(3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;

(4) the availability of alternative fisheries resources;

(5) the importance of each fishery to the economy of the state;

(6) the importance of each fishery to the economy of the region and local area in which the fishery is located;

(7) the importance of each fishery in providing recreational opportunities for residents and nonresidents.

(f) Except as expressly provided in AS 16.40.120(e) and 16.40.130, the Board of Fisheries may not adopt regulations or take action regarding the issuance, denial, or conditioning of a permit under AS 16.40.100 or 16.40.120, the construction or operation of

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a farm or hatchery required to have a permit under AS 16.40.100, or a harvest with permit issued under AS 16.40.120.

(g) The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days' public notice of the board's intention to consider approval of the petition. The board shall consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition.

(h) The Board of Fisheries shall adopt by regulation a policy for the management of mixed stock fisheries. The policy shall provide for the management of mixed stock fisheries in a manner that is consistent with sustained yield of wild fish stocks.

(i) Notwithstanding AS 16.43.140(c)(5), the board may adopt, at a regularly scheduled meeting at which the board considers regulatory proposals for management of a specific salmon fishery, a regulation to allow a person who holds two entry permits for that salmon fishery an additional fishing opportunity appropriate for that particular fishery.

Sec. 16.05.259. No subsistence defense. In a prosecution for the taking of fish or game in violation of a statute or regulation, it is not a defense that the taking was done for subsistence uses.

Sec. 16.05.260. Advisory committees. The Board of Fisheries and the Board of Game may adopt regulations they consider advisable in accordance with AS 44.62 (Administrative Procedure Act) establishing, at places in the state designated by the individual boards, advisory committees to be composed of persons well informed on the fish or game resources of the locality. The boards shall set the number and terms of each of the members of the advisory committees, shall delegate one member of each committee as chairman, and shall give the chairman authority to hold public hearings on fish or game matters. Recommendations from the advisory committees shall be forwarded to the appropriate board for their consideration but if the Board of Fisheries or the Board of Game chooses not to follow the recommendations of the local advisory committee the appropriate board shall inform the appropriate advisory committee of this action and state the reasons for not following the recommendations. The commissioner shall delegate authority to advisory committees for emergency closures during established seasons. The commissioner is empowered to set aside and make null and void only opening of seasons set by the advisory committees under this section. The appropriate board shall adopt the necessary regulations governing these closures.

Sec. 16.05.270. Delegation of authority to commissioner. For the purpose of administering AS 16.05.251 and 16.05.255, each board may delegate authority to the commissioner to act in its behalf. If there is a conflict between the board and the commissioner on proposed regulations, public hearings shall be held concerning the issues in question. If, after the public hearings, the board and the commissioner continue to disagree, the issue shall be certified in writing by the board and the commissioner to the governor who shall make a decision. The decision of the governor is final.

Sec. 16.05.280. Removal of board members. The governor may only remove a board

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member for inefficiency, neglect of duty, or misconduct in office, or because the member while serving on the board is convicted of a misdemeanor for violating a statute or regulation related to fish or game or of a felony, and shall do so by delivering to the member a written copy of the charges and giving the member an opportunity to be heard in person or through counsel at a public hearing before the governor or a designee upon at least 10 days' notice by registered mail. The member may confront and cross-examine adverse witnesses. Upon removal, the governor or a designee shall file in the proper state office the findings and a complete statement of all charges made against the member.

Sec. 16.05.310. Special board meetings. A board may meet at any time upon the call of the commissioner or upon the request of two board members.

Sec. 16.05.440. Expiration date for licenses. Licenses issued under AS 16.05.440 – 16.05.723 expire at the close of December 31 following their issuance or, for licenses that are valid for two years, after December 31 of the year after the year of issuance, and shall be renewed upon application and payment of the license fees required by AS 16.05.440 – 16.05.723.

Sec. 16.05.450. Issuance of licenses; disclosure for child support purposes. (a) The commissioner or an authorized agent shall issue a crewmember fishing license under AS 16.05.480 to each qualified person who files a written application at a place in the state designated by the commissioner, containing the reasonable information required by the commissioner together with the required fee. The commissioner shall require the reporting of the applicant's social security number on the application. The application shall be simple in form and shall be executed by the applicant under the penalty of unsworn falsification in the second degree.

(b) The Alaska Commercial Fisheries Entry Commission shall issue a vessel license under AS 16.05.490 to each qualified vessel for which a written application has been filed, at a place in the state designated by the commission, containing the reasonable information required by the commission together with the required fee. The application shall be simple in form and shall be executed by the applicant under the penalty of unsworn falsification in the second degree.

(c) Repealed 1977.

(d) Upon request, the commissioner shall provide a social security number provided under (a) of this section to the child support enforcement agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law.

Sec. 16.05.475. Registration of fishing vessels. (a) A person may not employ a fishing vessel in the water of the state unless it is registered under the laws of the state. Vessels registered under the laws of another state, and persons residing in another state are not excused from this provision.

(b) The term "employ", as used in this section, shall be defined by the Board of Fisheries through the adoption of regulations under AS 44.62 (Administrative Procedure Act). The definition may include any activities involving the use or navigation of fishing vessels.

(c) The term "registered under the laws of the state", as used in this section, shall be defined by the Board of Fisheries through the adoption of regulations under AS 44.62 (Administrative Procedure Act). The definition may include any existing requirements regarding registration, licenses, permits, and similar matters imposed by law or regulation

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together with modifications of them and with any additional requirements the board finds necessary to maximize the authority of the state to apply and enforce fisheries regulations under 16 U.S.C. 1801 – 1882 (Fishery Conservation and Management Act of 1976).

(d) In this section "fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for

(1) fishing, or

(2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Sec. 16.05.480. Commercial fishing license; disclosure for child support purposes. (a) A person engaged in commercial fishing shall obtain a commercial fishing license and retain the license in possession and readily available for inspection during fishing operations. An entry permit or interim-use permit entitles the holder to participate as a gear operator in the fishery for which the permit is issued and to participate as a crewmember in any fishery. A crewmember fishing license is not transferable and entitles the holder to participate as a crewmember in any fishery.

(b) A person applying for a commercial fishing license under this section shall provide the person's social security number. A person applying for a resident commercial fishing license under this section shall also provide proof of residence that the department requires by regulation.

(c) Repealed 1978.

(d) Upon request, the department or the Alaska Commercial Fisheries Entry Commission shall provide a social security number provided by an applicant for a license under this section to the child support enforcement agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law.

(e) Except as provided under AS 16.05.470 and AS 23.35.060, fees collected from the sale of crewmember fishing licenses under this section may be appropriated into the fish and game fund.

(f) Repealed 2001.

(g) A resident engaged in commercial fishing who is 11 years of age or older and who does not hold an entry permit or an interim-use permit shall pay a fee of \$60 for an annual crewmember fishing license. A resident engaged in commercial fishing who is less than 11 years of age and who does not hold an entry permit or an interim-use permit shall pay an annual fee of \$5.

(h) A nonresident engaged in commercial fishing who is 11 years of age or older and who does not hold an entry permit or an interim-use permit shall pay a base fee of \$60 for an annual crewmember fishing license, plus an amount, established by the department by regulation, that is as close as practicable to the maximum allowed by law. A nonresident engaged in commercial fishing who is less than 11 years of age and who does not hold an entry permit or an interim-use permit shall pay an annual base fee of \$5 plus an amount, established by the department by regulation, that is as close as practicable to the maximum allowed by law.

(i) Notwithstanding (g) and (h) of this section, a resident or nonresident engaged in commercial fishing who does not hold an entry permit or an interim-use permit may obtain

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a seven-day crewmember fishing license under this subsection. During the period for which the license is valid, a person who holds a seven-day crewmember fishing license may not engage in fishing with a rod and reel while present on a commercial fishing vessel. The fee for a seven-day crewmember fishing license is \$30.

(j) In this section, "commercial fishing license" includes an entry permit and an interim-use permit issued under AS 16.43 and a crewmember fishing license.

Sec. 16.05.490. Vessel license. As a condition to delivery or landing of fish or engaging in commercial fishing in the state, a license is required for a commercial vessel.

Sec. 16.05.495. Vessel license exemption. A vessel used exclusively for the commercial capture of salmon in commercial salmon administrative management areas that include state water between the latitude of Point Romanof and the latitude of Cape Newenham, and state water surrounding Nunivak Island, or at a set net site, is exempt from the licensing requirements of AS 16.05.490.

Sec. 16.05.510. Unlicensed vessel unlawful. A person may not operate a vessel to which AS 16.05.490 – 16.05.530 apply without a vessel license, whether the absence of a vessel license results from initial failure to purchase or from another reason.

Sec. 16.05.520. Number plate. (a) The vessel license includes a permanent number plate. The number plate shall be accompanied by a tab affixed to it designating the year to be fished. A number plate is not transferable, and it shall be considered a permanent fixture upon the vessel upon which it is originally placed. It shall be securely fastened well forward on the port side in plain sight. On a vessel with a superstructure, the plate shall be fastened on the port side of the superstructure. A number plate remains the property of the state. The Alaska Commercial Fisheries Entry Commission may establish by regulation a reasonable fee for the initial issuance of a permanent number plate. If a permanent number plate is accidentally defaced, mutilated, destroyed, or lost, the person owning or operating the vessel shall immediately apply for and may obtain a duplicate upon furnishing the Alaska Commercial Fisheries Entry Commission with the pertinent facts and a payment of a reasonable fee established by the commission by regulation that is not less than \$2.

(b) If a vessel carrying a number plate is lost, destroyed, or sold, the owner shall immediately report the loss, destruction, or sale to the Alaska Commercial Fisheries Entry Commission.

Sec. 16.05.530. Renewal of vessel license. (a) Upon payment of the vessel license fee and filing of the name and address of the owner of the vessel or the owner's authorized agent, the name and number of the vessel, a description of the vessel, the vessel license number, if any, the area to be fished, and other reasonable information required by the Alaska Commercial Fisheries Entry Commission, the commission shall issue a permanent number plate and a vessel license. If the vessel has a permanent number plate, the commission shall issue a vessel license and tab designating the year the license is valid. The tab shall be placed in the space provided on the permanent number plate.

(b) For calendar year 2006 and following years, the annual fee for a vessel license issued or renewed under this section is set according to the overall length, as defined by the United States Coast Guard, of the vessel under the following schedule:

- (1) 0 – 25 feet.....\$24
- (2) over 25 feet – 50 feet.....60

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(3) over 50 feet – 75 feet.....	120
(4) over 75 feet – 100 feet.....	225
(5) over 100 feet – 125 feet.....	300
(6) – (13) over 125 feet	375 – 900

Sec. 16.05.632. Identification of shellfish pots or buoys, or both, used in the taking of king crab and requirements for buoys. (a) Registration tags for the identification of shellfish pots or buoys, or both, used in the taking of king crab are required in areas in which the board has regulations limiting the total amount of shellfish pots allowed per vessel. Registration tags shall

- (1) be issued by the department under regulations adopted by the board;
- (2) be nontransferable;
- (3) be individually numbered, designating the year of issuance;
- (4) be permanently affixed to each shellfish pot or buoy, or both, used in the taking of king crab, whichever in the determination of the board is appropriate for identification, and in a manner determined to be appropriate by the board;
- (5) conform to other requirements determined to be appropriate by the board; and
- (6) be issued and renewed for a fee equal to the cost of obtaining the registration tags plus reasonable administrative costs, under procedures determined to be appropriate by the department.

(b) The unauthorized production, reproduction, sale, exchange, distribution, or use of registration tags required in (a) of this section is prohibited.

(c) In addition to meeting other requirements imposed by law, each shellfish pot used in the taking of king crab shall be connected to one durable "sea lion" buoy of an appropriate type and diameter as specified by the board. The buoy shall conform to other specifications determined to be appropriate by the board.

(d) Repealed 1989.

(e) In this section,

- (1) "board" means the Board of Fisheries;
- (2) "registrations tags" means any tag, tape, or other identification device or method determined to be appropriate by the board.

Sec. 16.05.660. License exemption. A person may, by complying with the \$5 license requirement of AS 16.05.340(a)(6), take not more than 2,000 pounds each of tom cod, blue cod, smelt, pickerel, white fish, and spider crab a year from waters of the state.

Sec. 16.05.665. Falsification of application for license. (a) A person who knowingly makes a false statement as to a material fact on an application for a license under AS 16.05.440 – 16.05.660 is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both.

(b) A license issued under AS 16.05.440 – 16.05.660 to a person convicted under (a) of this section is void.

(c) A person whose license is void under (a) and (b) of this section may not obtain another license of the same type for a period of not less than two nor more than three years

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from the date of conviction by the court.

Sec. 16.05.675. Landing permits. (a) A person who does not hold a limited entry permit or interim-use permit issued under AS 16.43 or a fish transporter permit issued under AS 16.05.671 may not deliver or land fish in the state unless the person

(1) holds a valid federal permit to operate commercial fishing gear in the fishery conservation zone; and

(2) has been issued a landing permit by the Alaska Commercial Fisheries Entry Commission.

(b) The commissioner may by regulation establish eligibility requirements for the issuance of a landing permit.

(c) The commissioner may authorize the Alaska Commercial Fisheries Entry Commission to issue landing permits for a fishery if the commissioner has made a written finding that the issuance of landing permits for that fishery is consistent with state resource conservation and management goals.

Sec. 16.05.680. Unlawful practices. (a) It is unlawful for a person, or an agent or representative of the person,

(1) to employ, in the harvesting, transporting, or purchasing of fish, a fisherman who neither is licensed under AS 16.05.480 nor is the holder of a permit issued under AS 16.43;

(2) to purchase fish from a person who is not

(A) the holder of a limited entry, interim-use, or landing permit issued under AS 16.43;

(B) a fish transporter who is selling the fish as the agent of the holder of a limited entry, interim-use, or landing permit issued under AS 16.43; or

(C) exempt under AS 16.05.660; or

(3) to purchase fish from an association other than one to which a permit has been issued under AS 16.05.662.

(b) A person may not sell salmon that was not harvested under the authority of the entry permit, interim-use permit, or landing permit under which the salmon is sold. For purposes of this subsection, salmon sold by a fish transporter on behalf of the commercial fisherman who harvested the salmon is salmon harvested under the authority of the limited entry, interim-use, or landing permit under which the salmon is sold.

Sec. 16.05.685. Processing on commercial crab fishing vessels. (a) Crab of any species may not be processed on a commercial crab fishing vessel unless

(1) the vessel remains within one registration area from the time the crab is caught to the time of dock delivery;

(2) the operator of the vessel notifies the department of proposed changes in location before moving to another registration area; and

(3) the operator of the vessel provides quarters for inspectors of the department who may inspect the crab catch on the vessel at any time.

(b) The restrictions set out in (a) of this section do not apply to processing aboard the fishing vessel for and as donations to charity, for consumption aboard the vessel, or for

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dockside retail sales from the vessel.

(c) In this section,

(1) "process" means to butcher, cook, chill, or freeze crab for commercial use;

(2) "registration area" means a specific king crab registration area as designated by regulation of the Board of Fisheries.

Sec. 16.05.690. Record of purchases. (a) Each buyer of fish shall keep a record of each purchase showing the name or number of the vessel from which the catch involved is taken, the date of landing, vessel license number, pounds purchased of each species, number of each species, and the Department of Fish and Game statistical area in which the fish were taken, and other information the department requires. Records may be kept on forms provided by the department. Each person charged with keeping the records shall report them to the department in accordance with regulations adopted by the department.

(b) A person may not knowingly enter false information on a fish ticket or supply false information to a person who is recording information on a fish ticket.

Sec. 16.05.710. Suspension of commercial license and entry permit. (a) Upon the conviction of a person for a misdemeanor or felony violation of a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, the court, in addition to other penalties imposed by law,

(1) may suspend one or more of the person's commercial fishing privileges and licenses for a period of not more than one year if the conviction is the person's first or second misdemeanor or felony conviction within a 10-year period for violating a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, or another jurisdiction; or

(2) shall suspend one or more of the person's commercial fishing privileges and licenses for a period of not more than three years, if the conviction is the person's third or subsequent misdemeanor or felony conviction within a 10-year period for violating a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, or another jurisdiction.

(b) Upon a first conviction of a person for a violation of AS 11.46.120—11.46.130 in which the property is commercial fishing gear as defined in AS 16.43.990, the court shall, in addition to the penalty imposed by law, suspend one or more of the person's commercial fishing privileges and licenses for one year. Upon a second or subsequent conviction for a violation of AS 11.46.120—11.46.130 or a similar law of another jurisdiction in which the property is commercial fishing gear as defined in AS 16.43.990, the court shall, in addition to the penalty imposed by law, suspend one or more of the person's commercial fishing privileges and licenses for two years.

(c) If proceedings in which commercial fishing privileges or licenses may be suspended under this section are pending against a limited entry permit holder, the permit holder's limited entry permit may not be permanently transferred, unless allowed by order of the court in which the proceedings are pending, and a permanent transfer of the permit, unless allowed by order of the court, is void. During the period for which a limited entry permit or the permit holder's right to obtain a limited entry permit or to engage in an activity for which a limited entry permit is required is suspended under this section, a permit card may not be issued to the permit holder and the permit holder's permit may not be transferred or sold.

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(d) In this section,

(1) "commercial fishing law" means a statute or regulation that regulates the conduct of a person engaged in commercial fishing activities by establishing requirements relating to fishing licenses and permits; catch records and reports; size, nature, or use of fishing vessels, sites, and gear; time, place, or manner of taking fishery resources; possession, transportation, sale, barter, or waste of fishery resources; or other aspects of commercial fishing;

(2) "commercial fishing license" means a limited entry permit or a crewmember license;

(3) "commercial fishing privilege" means the privilege of participating in an activity for which a commercial fishing license is required and the privilege of obtaining a commercial fishing license;

(4) "limited entry permit" means an entry permit or an interim-use permit issued under AS 16.43.

Sec. 16.05.722. Strict liability commercial fishing penalties. (a) A person who without any culpable mental state violates AS 16.05.440 – 16.05.690, or a regulation of the Board of Fisheries or the department governing commercial fishing, is guilty of a violation and upon conviction is punishable by a fine of not more than

(1) \$3,000 for a first conviction;

(2) \$6,000 for a second or for a subsequent conviction not described in (3) of this subsection; and

(3) \$9,000 for a third or subsequent conviction within a 10-year period.

(b) In addition, the court shall order forfeiture of any fish, or its fair market value, taken or retained as a result of the commission of the violation. For purposes of this subsection, it is a rebuttable presumption that all fish found on board a fishing vessel used in or in aid of a violation, or found at the fishing site, were taken or retained in violation of AS 16.05.440 – 16.05.690 or a commercial fisheries regulation of the Board of Fisheries or the department. It is the defendant's burden to show by a preponderance of the evidence that the fish on board or at the site were lawfully taken and retained.

(c) A person charged with a violation under this section is entitled to a trial by court but not by jury, and is not entitled to representation at public expense.

Sec. 16.05.723. Misdemeanor commercial fishing penalties. (a) A person who negligently violates AS 16.05.440 – 16.05.690, or a regulation of the Board of Fisheries or the department governing commercial fisheries, is guilty of a misdemeanor and in addition to punishment under other provisions in this title, including AS 16.05.195 and 16.05.710, is punishable upon conviction by a fine of not more than \$15,000 or by imprisonment for not more than one year, or by both. In addition, the court shall order forfeiture of any fish, or its fair market value, taken or retained as a result of the commission of the violation, and the court may forfeit any vessel and any fishing gear, including any net, pot, tackle, or other device designed or employed to take fish commercially, that was used in or in aid of the violation. Any fish, or its fair market value, forfeited under this subsection may not also be forfeited under AS 16.05.195. For purposes of this subsection, it is a rebuttable presumption that all fish found on board a fishing vessel used in or in aid of a violation, or found at the fishing site, were taken or retained in violation of AS 16.05.440 – 16.05.690 or

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a commercial fisheries regulation of the Board of Fisheries or the department, and it is the defendant's burden to show by a preponderance of the evidence that fish on board or at the site were lawfully taken and retained.

(b) If a person is convicted under this section of one of the following offenses, then, in addition to the penalties imposed under (a) of this section, the court may impose a fine equal to the gross value of the fish found on board or at the fishing site at the time of the violation:

- (1) commercial fishing in closed waters;
- (2) commercial fishing during a closed period or season;
- (3) commercial fishing with unlawful gear, including a net, pot, tackle, or other device designed or employed to take fish commercially; or
- (4) commercial fishing without a limited entry permit holder on board if the holder is required by law or regulation to be present.

(c) Upon a third misdemeanor conviction within a period of 10 years for an offense listed in (b) of this section or any combination of offenses listed in (b) of this section, the court shall impose, in addition to any penalties imposed under (a) of this section, a fine equal to three times the gross value of the fish on board or at the fishing site at the time of the offense, or a fine equal to \$10,000, whichever is greater.

Sec. 16.05.735. Management of offshore fisheries. The state may assume management of the fisheries in offshore water adjacent to the state in the absence of a federal fishery management plan or in the event that a federal fishery management plan delegates authority to the state to manage fisheries in the United States exclusive economic zone.

Sec. 16.05.800. Public nuisances. A net, seine, lantern, snare, device, contrivance, and material while in use, had and maintained for the purpose of catching, taking, killing, attracting, or decoying fish or game, contrary to law or regulation of a board or the commissioner, is a public nuisance and is subject to abatement.

Sec. 16.05.810. Burden of proof. The possession of fish or game or a part of fish or game, or a nest or egg of a bird during the time the taking of it is prohibited is prima facie evidence that it was taken, possessed, bought, or sold or transported in violation of this chapter. The burden of proof is upon the possessor or claimant of it to overcome the presumption of illegal possession and to establish the fact that it was obtained and is possessed lawfully. This section does not apply

- (1) during the first full 10 days after the time when a taking is prohibited, except as provided in (3) of this section,
- (2) if the fish or game or part of fish or game is in a preserved condition whether frozen, smoked, canned, salted, pickled, or otherwise preserved; or
- (3) with respect to crab aboard a commercial crab fishing vessel, during the first full three days after the time when a taking is prohibited.

Sec. 16.05.815. Confidential nature of certain reports and records. (a) Except as provided in (b) and (c) of this section, records required by regulations of the department concerning the landings of fish, shellfish, or fishery products, and annual statistical reports of fisherman, buyers, and processors required by regulation of the department are confidential and may not be released by the department or by the Alaska Commercial Fisheries Entry

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Commission except as set out in this subsection. The department may release the records and reports set out in this subsection to the Alaska Commercial Fisheries Entry Commission. The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient other than a recipient under (5) – (9) of this subsection, agrees to maintain the confidentiality of the records and reports. The department and the Alaska Commercial Fisheries Entry Commission may release

(1) any of the records and reports to the National Marine Fisheries Service and the professional staff of the North Pacific Fishery Management Council as required for preparation and implementation of the fishery management plans of the North Pacific Fishery Management Council within the exclusive economic zone;

(2) any of the records and reports to the professional staff of the Pacific States Marine Fisheries Commission who are employed in the Alaska Fisheries Information Network project for the purpose of exchanging information with users authorized by the department;

(3) any of the records and reports to the Department of Revenue to assist the department in carrying out its statutory responsibilities;

(4) records or reports of the total value purchased by each buyer to a municipality that levies and collects a tax on fish, shellfish, or fishery products if the municipality requires records of the landings of fish, shellfish, or fishery products to be submitted to it for purposes of verification of taxes payable;

(5) such records and reports as necessary to be in conformity with a court order;

(6) on request, the report of a person to the person whose fishing activity is the subject of the report, or to a designee of the person whose fishing activity is the subject of the report;

(7) on request, annual statistical reports of a fisherman, buyer, or processor to the fisherman, buyer, or processor whose activity is the subject of the report, or to a designee of the fisherman, buyer, or processor whose activity is the subject of the report;

(8) any of the records and reports to the Department of Public Safety for law enforcement purposes;

(9) fish tickets, fish ticket information, records required of sport fishing guides, and annual statistical reports of fishermen, buyers, and processors and information in those reports to the law enforcement personnel of the National Marine Fisheries Service and the National Oceanic and Atmospheric Administration for the purpose of enforcing fishery laws in waters of this state and in waters of the exclusive economic zone adjacent to this state;

(10) fish tickets, fish ticket information, and records required of sport fishing guides regarding halibut to the International Pacific Halibut Commission;

(11) any of the records and reports to the child support enforcement agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law;

(12) any of the records and reports to the Department of Natural Resources to assist the department in carrying out its statutory responsibilities in regard to sport fishing operations and sport fishing guides within the Kenai River Special Management Area under AS 41.21.500 – 41.21.514;

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(13) fish ticket information and records or reports of the total value purchased by each fisherman, buyer, or processor to the National Marine Fisheries Service for the purpose of enforcing the industry fee system of a fishing capacity reduction program under 16 U.S.C. 1861a (Magnuson-Stevens Fishery Conservation and Management Act).

(b) Except as provided in (c) of this section, records or reports received by the department which do not identify individual fishermen, buyers, or processors or the specific locations where fish have been taken are public information.

(c) Crab stock abundance survey information that reveals crab catch by sampling location is confidential and is not subject to inspection or copying under AS 40.25.110 – 40.25.120 until the close of the fishing season for which the survey was conducted.

(d) Except as otherwise provided in this section, the department shall keep confidential (1) personal information contained in fish and wildlife harvest and usage data; and (2) the records of the department that concern (A) telemetry radio frequencies of monitored species; (B) denning sites; (C) nest locations of raptors that require special attention; (D) the specific location of animal capture sites used for wildlife research or management; and (E) the specific location of fish and wildlife species. The department may release records and information that are kept confidential under this subsection if the release is necessary to comply with a court order, if the requestor is a state or federal agency, if the requestor is under contract with the state or federal agency to conduct research on a fish or wildlife population, or if the requestor has been authorized by the department to perform specific activities and agrees to use the records and information only for purposes as provided under a contract or agreement with the department. After 25 years, the records and information that are kept confidential under this subsection become public records subject to inspection and copying under AS 40.25.110 – 40.25.140 unless the department determines that the release of the records or information may be detrimental to the fish or wildlife population. In this subsection, "personal information" has the meaning given in AS 40.25.350.

Sec. 16.05.905. Activities by aliens prohibited. (a) Alien persons not lawfully admitted to the United States are prohibited from engaging in commercial fishing activities or taking marine mammals in the territorial waters of the state as they presently exist or may be extended in the future.

(b) An alien person who violates (a) of this section is guilty of a misdemeanor, and upon conviction is punishable by a confiscation and forfeiture of the fishing vessel used in the violation, or by imprisonment for not more than one year, or by fine or not more than \$10,000, or by all or any two of the foregoing punishments.

Sec. 16.05.920. Prohibited conduct generally. (a) Unless permitted by AS 16.05 – AS 16.40 or by regulation adopted under AS 16.05 – AS 16.40, a person may not take, possess, transport, sell, offer to sell, purchase, or offer to purchase fish, game, or marine aquatic plants, or any part of fish, game, or aquatic plants, or a nest or egg of fish or game.

(b) A person may not knowingly disturb, injure, or destroy a notice, signboard, seal, tag, aircraft, boat, vessel, automobile, paraphernalia, equipment, building or other improvement or property of the department used in the administration or enforcement of this title except AS 16.51 and AS 16.52, or a poster or notice to the public concerning the provisions of this title except AS 16.51 and AS 16.52, or regulation adopted under this title except AS 16.51 and AS 16.52, or a marker indicating the boundary of an area closed to hunting, trapping, fishing, or other special use under this title except AS 16.51 and AS 16.52. A person may not knowingly destroy, remove, tamper with, or imitate a seal or tag issued or used by the

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department or attached under its authority to a skin, portion, or specimen of fish or game, or other article for the purpose of identification or authentication in accordance with this title except AS 16.51 and AS 16.52 or a regulation adopted under this title except AS 16.51 and AS 16.52.

Sec. 16.05.925. Penalty for violations. Except as provided in AS 16.05.430, 16.05.665, 16.05.722, 16.05.723, 16.05.783, 16.05.831, 16.05.861, and 16.05.905, a person who violates AS 16.05.920 or AS 16.05.921, or a regulation adopted under this chapter or AS 16.20, is guilty of a Class A misdemeanor.

Sec. 16.05.930. Exempted activities. (a) This chapter does not prevent the collection or exportation of fish and game, a part of fish or game or a nest or egg of a bird for scientific or educational purposes, or for propagation or exhibition purposes under a permit that the department may issue and prescribe the terms thereof.

(b) This chapter does not prohibit a person from taking fish or game during the closed season, in case of dire emergency, as defined by regulation adopted by the appropriate board.

(c) AS 16.05.920 and 16.05.921 do not prohibit rearing and sale of fish from private ponds, the raising of wild animals in captivity for food, or the raising of game birds for the purpose of recreational hunting on game hunting preserves, under regulations adopted by the appropriate board. In this subsection, "animals" includes all animal life, including insects and bugs.

(d) Nondomestic animals of any species may not be transferred or transported from the state under (a) of this section unless approved by the Board of Game in regular or special meeting. Animals transferred or transported under (a) of this section shall be animals that are certified by the department to be surplus and unnecessary to the sustained yield management of the resource. Each application for a permit under (a) of this section shall be accompanied by a statement prepared by the department examining the probable environmental impact of the action.

(e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.

(f) A permit may not be required for possessing, importing or exporting mink and fox for fur farming purposes.

(g) AS 16.05.330 – 16.05.723 do not apply to an activity authorized by a permit issued under AS 16.40.100 or 16.40.120, or to a person or vessel employed in an activity authorized by a permit issued under AS 16.40.100 or 16.40.120.

Sec. 16.05.940. Definitions. In AS 16.05 – AS 16.40,

(1) **"aquatic plant"** means any species of plant, excluding the rushes, sedges, and true grasses, growing in a marine aquatic or intertidal habitat;

(2) **"barter"** means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange

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is of a limited and noncommercial nature;

(3) **"a board"** means either the Board of Fisheries or the Board of Game;

(4) **"commercial fisherman"** means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; **"commercial fisherman"** includes the crews of tenders or other floating craft used in transporting fish, but does not include processing workers on floating fish processing vessels who do not operate fishing gear or engage in activities related to navigation or operation of the vessel; in this paragraph, **"operate fishing gear"** means to deploy or remove gear from state water, remove fish from gear during an open fishing season or period, or possess a gill net containing fish during an open fishing period;

(5) **"commercial fishing"** means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or possession of fish, shellfish or other fish resources;

(6) **"commissioner"** means the commissioner of fish and game unless specifically provided otherwise;

(7) **"customary and traditional"** means the noncommercial, long-term, and consistent taking of, use of, and reliance upon fish or game in a specific area and the use patterns of that fish or game that have been established over a reasonable period of time taking into consideration the availability of the fish or game;

(8) **"customary trade"** means the limited noncommercial exchange, for minimal amounts of cash, as restricted by the appropriate board, of fish or game resources; the terms of this paragraph do not restrict money sales of furs and furbearers;

(9) **"department"** means the Department of Fish and Game unless specifically provided otherwise;

(11) **"domicile"** means the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away; domicile may be proved by presenting evidence acceptable to the Boards of Fisheries and Game;

(12) **"fish"** means any species of aquatic finfish, invertebrate, or amphibian, in any stage of their life cycle, found in or introduced into the state, and includes any part of such aquatic finfish, invertebrate, or amphibian;

(13) **"fish derby"** means a contest in which prizes are awarded for catching fish;

(14) **"fish or game farming"** means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and **"captivity"** means having the fish or game under positive control, as in a pen, pond, or an area of land or water that is completely enclosed by a generally escape-proof barrier; in this paragraph, **"fish"** does not include shellfish, as defined in AS 16.40.199;

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(15) "**fish stock**" means a species, subspecies, geographic grouping or other category of fish manageable as a unit;

(16) "**fish transporter**" means a natural person who holds a fish transport permit issued under AS 16.05.671;

(17) "**fishery**" means a specific administrative area in which a specific fishery resource is taken with a specific type of gear; however, the Board of Fisheries may designate a fishery to include more than one specific administrative area, type of gear, or fishery resource; in this paragraph

(A) "**gear**" means the specific apparatus used in the harvest of a fishery resource; and

(B) "**type of gear**" means an identifiable classification of gear and may include

(i) classification for which separate regulations are adopted by the Board of Fisheries or for which separate gear licenses were required by former AS 16.05.550—16.05.630; and

(ii) distinct subclassification of gear such as "power" troll gear and "hand" troll gear or sport gear and guided sport gear;

(22) "**nonresident**" means a person who is not a resident of the state;

(23) "**nonresident alien**" means a person who is not a citizen of the United States and whose permanent place of abode is not in the United States;

(24) "**operator**" means the individual by law made responsible for the operation of the vessel;

(25) "**person with physical disabilities**" means a person who presents to the department either written proof that the person receives at least 70 percent disability compensation from a government agency for a physical disability or an affidavit signed by a physician licensed to practice medicine in the state stating that the person is at least 70 percent physically disabled;

(26) "**personal use fishing**" means the taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(27) "**resident**" means

(A) a person who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person's domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country;

(B) a partnership, association, joint stock company, trust, or corporation that has its main office or headquarters in the state; a natural person who does not otherwise qualify as a resident under this paragraph may not qualify as a resident by virtue of an interest in a partnership, association, joint stock company, trust, or corporation;

(C) a member of the military service, or United States Coast Guard, who has been stationed in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made;

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(D) a person who is the dependent of a resident member of the military service, or the United States Coast Guard, and who has lived in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made; or

(E) an alien who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person's domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country;

(28) "**rural area**" means a community or area of the state in which the noncommercial, customary, and traditional use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area;

(29) "**seizure**" means the actual or constructive taking or possession of real or personal property subject to seizure under AS 16.05 – AS 16.40 by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(30) "**sport fishing**" means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(31) "**subsistence fishing**" means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources by a resident domiciled in a rural area of the state for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(33) "**subsistence uses**" means the noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in this paragraph, "**family**" means persons related by blood, marriage, or adoption, and a person living in the household on a permanent basis;

(34) "**take**" means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(37) "**vessel**" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but does not include aircraft.

Editor's note: The definitions listed in this section are only those that pertain to fish. Definitions pertaining to game were intentionally left out.

Chapter 10. Fisheries and Fishing Regulations.

Sec. 16.10.055. Interference with commercial fishing gear. A person who willfully or with reckless disregard of the consequences, interferes with or damages the commercial fishing gear of another person is guilty of a misdemeanor. For the purposes of this section "interference" means the physical disturbance of gear which results in economic loss of fishing time, and "reckless disregard of the consequences" means a lack of consideration for the consequences of one's acts in a manner that is reasonably likely to damage the

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property of another.

Sec. 16.10.125. Use of termination device on shellfish and bottomfish pot required.

The Board of Fisheries shall, by regulation, prescribe a termination device or devices for all shellfish and bottomfish pots. In this section "termination device" means a biodegradable seam or panel or other device that renders the pot incapable of holding shellfish or bottomfish for more than six months when it is continuously immersed in sea water.

Sec. 16.10.130. Penalty for violation of 16.10.120 or 16.10.125. A person who violates AS 16.10.120 or 16.10.125 is guilty of a misdemeanor, and upon conviction is punishable by imprisonment for not more than six months, or by a fine of not more than \$1,000, or by both.

Sec. 16.10.180. Legislative findings. The legislature finds and recognizes these facts:

(1) migratory fish and migratory shellfish are present in commercial quantities inside and outside the territorial waters of the state;

(2) migratory fish and migratory shellfish taken from the waters of the state are indistinguishable, in most cases, from those taken from the adjacent high seas;

(3) substantial quantities of migratory fish and migratory shellfish move inshore and offshore intermittently and at various times during a given year and in so doing often enter and leave territorial waters of the state;

(4) to conserve the migratory fish and migratory shellfish found inside the waters of the state it is necessary to strictly enforce local laws and regulations;

(5) by making certain laws and regulations enacted or adopted for the regulation of the coastal fishery applicable to the adjacent high sea areas, enforcement of these laws and regulations is facilitated;

(6) conservation regulations should not be adopted to impose economic sanctions.

Sec. 16.10.190. Regulations. The Board of Fisheries may adopt regulations to carry out the purposes of AS 16.10.180 – 16.10.230 defining the adjacent high sea areas, migratory fish, and migratory shellfish and to make coastal fishery regulations governing the manner, means, conditions, and time for the taking of migratory fish and migratory shellfish applicable in designated adjacent high sea areas.

Sec. 16.10.200. Unlawful taking prohibited. A person taking migratory fish and migratory shellfish in high sea areas designated by the Board of Fisheries or in violation of the regulations adopted by the Board of Fisheries governing the taking of migratory fish and migratory shellfish in the designated areas may not possess, sell, offer to sell, barter, offer to barter, give, or transport in the state, including the waters of the state, migratory fish or migratory shellfish.

Sec. 16.10.210. Unlawful sale or offer prohibited. A person may not possess, purchase, offer to purchase, sell, or offer to sell in the state migratory fish or migratory shellfish taken on the high seas knowing that they were taken in violation of a regulation adopted by the Board of Fisheries governing the taking of migratory fish or migratory shellfish in certain areas designated by the Board of Fisheries or the commissioner.

Sec. 16.10.220. Penalty for violation of AS 16.10.200 and 16.10.210. A person who violates AS 16.10.200 and 16.10.210 is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$5,000 or by imprisonment for not more than one year, or by both.

Sec. 16.10.240. Transportation of live crab. (a) A person may not take out of, ship,

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transport, or send from this state any live king crab, species *Paralithodes camtschatica*, live Dungeness crab, species *Cancer magister*, or live Tanner crab, species *Chionoecetes bairdi*, except that all of these species may be shipped live via air freight after pre-packaging.

(b) Notwithstanding (a) of this section, live Dungeness crab, species *Cancer magister*, may be taken, shipped, transported, or sent from the state by means of surface transportation if the crab are taken at a time and location in the state for which the Department of Environmental Conservation does not require seafood processors to test Dungeness crab for the presence of marine toxins.

Sec. 16.10.250. Penalty. A person, association, or corporation violating AS 16.10.240 or contributing to or cooperating in the violation of AS 16.10.240 is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both. Each unlawful removal of live crab is a separate offense. Vessels and equipment used in or in aid of a violation of AS 16.10.240 may be seized and disposed of as provided in AS 16.05.190. Conviction under AS 16.10.240 is grounds for suspension of a fishing license or permit by the department.

Sec. 16.10.265. Purchase of fish from permit holders. (a) An individual may not, while acting as a fish processor or primary fish buyer, or as an agent, director, officer, member, or employee of a fish processor, of a primary fish buyer, or of a cooperative corporation organized under AS 10.15, intentionally or knowingly make an original purchase of fish from a seller who does not hold

- (1) a landing permit, an entry permit, or an interim-use permit; or
- (2) a fish transporter permit under AS 16.05.671.

(b) An individual who violates (a) of this section is

(1) upon a first conviction, guilty of a class B misdemeanor and shall be sentenced to a fine of not less than \$1,000 nor more than \$5,000, and may be sentenced to a definite term of imprisonment of not more than 90 days;

(2) upon a second conviction, guilty of a class A misdemeanor and shall be sentenced to a fine of not less than \$5,000 nor more than \$10,000, and may be sentenced to a definite term of imprisonment of not more than one year;

(3) upon a third or subsequent conviction, guilty of a class A misdemeanor and shall be sentenced to a fine of not less than \$10,000 nor more than \$25,000, and may be sentenced to a definite term of imprisonment of not more than one year.

(c) The commissioner of revenue shall impose upon a fish processor, primary fish buyer, or cooperative corporation organized under AS 10.15, a civil fine equal to the value of fish purchased in violation of this section by (1) the fish processor or primary fish buyer if the fish processor or primary fish buyer is not a corporation; or (2) a director, officer, or employee in a policy-making position of the fish processor, of the primary fish buyer, or of the cooperative corporation. Value is based on the average price paid to fishermen at the time of the violation.

(d) The commissioner of commerce, community, and economic development may suspend or revoke a business license issued under AS 43.70.020 and the commissioner of revenue may suspend or revoke a license to engage in the business of processing or buying raw fish if the licensee or an officer, director, or employee in a policy-making position of the licensee has been convicted of three offenses under this section. Proceedings to suspend

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or revoke a license are governed by AS 44.62 (Administrative Procedure Act).

(e) An organization may not be criminally prosecuted under (a) of this section.

(f) In this section, "individual" means a natural person.

Sec. 16.10.267. Possession of permit and identification by seller. (a) When a fisherman sells fish, the fisherman shall possess

(1) a landing permit, entry permit, or interim-use permit issued or transferred to the fisherman under AS 16.43, or other document authorized by regulation to be used in place of an entry permit or interim-use permit; and

(2) an identification card that has been issued to the fisherman by a state or federal agency or other organization designated by the Department of Public Safety and that bears a photograph of the fisherman.

(b) If requested by the purchaser of the fish or by a peace officer, the fisherman or fish transporter shall present for inspection the identification card, entry permit, interim-use permit, fish transporter permit, or other document required to be in the fisherman's or fish transporter's possession under (a) or (d) of this section.

(c) Examples of a suitable identification card required under (a)(2) and (d)(2) of this section are a motor vehicle operator's license issued under AS 28.15.111 and an identification card issued under AS 18.65.310.

(d) When a fish transporter sells fish as the agent of the commercial fisherman who caught the fish, the fish transporter shall possess

(1) a fish transporter permit and the fish ticket completed by the fish transporter under AS 16.05.671(d); and

(2) an identification card that has been issued to the fish transporter by a state or federal agency or other organization designated by the Department of Public Safety and that bears a photograph of the fish transporter.

(e) A person who violates this section is, upon conviction, guilty of a class B misdemeanor and may be sentenced to a definite term of imprisonment of not more than 90 days. In addition

(1) upon a first conviction for a violation of this section, the court may sentence the convicted person to pay a fine of not more than \$5,000 and may order the loss of commercial fishing privileges for a period of not more than three years from the date of conviction;

(2) upon a second conviction for a violation of this section, the court may sentence the convicted person to pay a fine of not more than \$10,000 and may order the loss of commercial fishing privileges for a period of not more than three years from the date of conviction;

(3) upon a third or subsequent conviction for a violation of this section, the court

(A) may sentence the convicted person to pay a fine of not more than \$10,000;

and

(B) shall order that the convicted person lose commercial fishing privileges for a period of three years from the date of conviction.

Sec. 16.10.268. Notice of liability. (a) The commissioner of labor and workforce development shall print posters that contain notice of the requirements of AS 16.10.265.

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The commissioner shall distribute the posters to fish processors, primary fish buyers, and cooperative corporations organized under AS 10.15 for the purpose of buying fish.

(b) A fish processor, primary fish buyer, or cooperative corporation organized under AS 10.15 for the purpose of buying fish shall display in a prominent place on its business premises posters provided by the commissioner of labor under (a) of this section.

Sec. 16.10.270. Purchase of fish by the pound. (a) A fish processor or primary fish buyer shall purchase raw fish by the pound. The poundage of the fish to be purchased shall be determined by weighing the fish unless both the buyer and seller agree in writing upon a sample weighing technique that will fairly determine the average weight of the fish purchased.

(b) A person who violates this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment of not more than one year, or by a fine of not more than \$5,000, or by both.

Sec. 16.10.275. Regulations. The commissioner may adopt regulations to carry out the provisions of AS 16.10.270 – 16.10.296.

Sec. 16.10.294. Administrative and judicial orders. (a) – (d) Repealed by Executive Order No. 85. (1993).

(e) If the commissioner determines that a fish processor or primary fish buyer is acting in violation of AS 16.10.270 – 16.10.280, the commissioner shall give written notice prohibiting further action by the person as a fish processor or primary fish buyer. The prohibition continues until the person has submitted evidence acceptable to the commissioner showing that the violation has been corrected.

(f) A person affected by an order issued under AS 16.10.265 – 16.10.296 may seek equitable relief preventing the commissioner from enforcing the order.

(g) In an action instituted in the superior court by the commissioner or a representative of the commissioner, a person acting in the capacity of a fish processor or primary fish buyer in violation of AS 16.10.265 – 16.10.296 may be enjoined from acting as a fish processor or primary fish buyer.

Sec 16.10.296. Definitions. In AS 16.10.265 – 16.10.296, unless the context otherwise requires,

- (1) "commissioner" means the commissioner of labor and workforce development;
- (2) "fish" means any species of aquatic finfish, invertebrates and amphibians, shellfish, or any other raw fishery resource, in any stage of its life cycle, found in or introduced into the state, and includes fish eggs except fish eggs sold for stock enhancement purposes;
- (3) "fish processor" means a person engaging or attempting to engage in a business for which a license is required under AS 43.75;
- (4) "primary fish buyer" means a person, other than a cooperative corporation organized under AS 10.15, engaging or attempting to engage in the business of originally purchasing or buying any fishery resource in intrastate, interstate, or foreign commerce.

Chapter 43. Regulation of Entry into Alaska Commercial Fisheries.

Sec. 16.43.100. Duties and general powers. (a) To accomplish the purposes set out in AS 16.43.010, the commission shall

- (1) regulate entry into the commercial fisheries for all fishery resources in the

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state;

(2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;

(3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;

(4) establish, for all types of gear, the maximum number of entry permits for each administrative area;

(5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;

(6) establish qualifications for the issuance of entry permits;

(7) issue entry permits to qualified applicants;

(8) issue interim-use permits as provided in AS 16.43.210, 16.43.220, and 16.43.225;

(9) establish, for all types of gear, the optimum number of entry permits for each administrative area;

(10) administer the buy-back program provided for in AS 16.43.310 and 16.43.320 to reduce the number of outstanding entry permits to the optimum number of entry permits;

(11) provide for the transfer and reissuance of entry permits to qualified transferees;

(12) provide for the transfer and reissuance of entry permits for alternative types of legal gear, in a manner consistent with the purposes of this chapter;

(13) establish and administer the collection of the annual fees provided for in AS 16.43.160;

(14) administer the issuance of commercial fishing vessel licenses under AS 16.05.490;

(15) issue educational entry permits to applicants who qualify under the provisions of AS 16.43.340 – 16.43.390;

(16) establish reasonable user fees for services;

(17) issue landing permits under AS 16.05.675 and regulations adopted under that section;

(18) establish and collect annual fees for the issuance of landing permits that reasonably reflect the costs incurred in the administration and enforcement of provisions of law related to landing permits;

(19) establish a moratorium on entry into commercial fisheries as provided in AS 16.43.225;

(20) repealed 12/30/2013; and

(21) when requested by a regional development organization formed under AS 44.33.895, provide to the organization, without charge, public information contained in the commission's data with respect to relevant fisheries, including limited fisheries, fishery participants, and limited entry permit holder's harvests and earnings.

(b) The commission may do all things necessary to the exercise of its powers under

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this chapter, whether or not specifically designated in this chapter.

Sec. 16.43.110. Regulations and hearing procedures. (a) The commission may adopt regulations, consistent with law, necessary or proper in the exercise of its powers or for the performance of its duties under this chapter.

(b) The commission shall adopt regulations, consistent with due process of law, that govern practice and procedure and the conduct of all investigations, hearings, and proceedings which it holds.

(c) The Alaska Rules of Evidence apply to investigations, hearings, and proceedings before the commission, except when the commission determines that their application is not required in order to assure fair treatment of all parties and that the evidence is relevant and of the sort on which responsible persons are accustomed to rely in the conduct of serious matters.

(d) The commission, a commissioner, or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts, and documents in an inquiry, investigation, hearing, or proceeding before the commission in any part of the state. The commission may petition a court to enforce its subpoenas or other process.

(e) The commission shall adopt regulations to provide for the correction of administrative error.

Sec. 16.43.140. Permit required. (a) After January 1, 1974, a person may not operate gear in the commercial taking of fishery resources without a valid entry permit or a valid interim-use permit issued by the commission.

(b) A permit is not required of a crewman or other person assisting in the operation of a unit of gear engaged in the commercial taking of fishery resources as long as the holder of the entry permit or the interim-use permit for that particular unit of gear is at all times present and actively engaged in the operation of the gear.

(c) A person may hold more than one interim-use or entry permit issued or transferred under this chapter only for the following purposes:

(1) fishing more than one type of gear;

(2) fishing in more than one administrative area;

(3) harvesting particular species for which separate interim-use or entry permits are issued;

(4) if authorized by regulations of the commission, fishing an entire unit of gear in a fishery in which the commission has issued entry permits for less than a unit of gear under AS 16.43.270(d); under this paragraph, a person may not hold more than two entry permits for a fishery; however, the person may not

(A) fish more than one unit of gear in the fishery; or

(B) acquire a second entry permit for the fishery after the person has acquired an entry permit that authorizes the use of an entire unit of gear in the fishery;

(5) consolidation of the fishing fleet for a salmon fishery; however, a person may hold not more than two entry permits for a salmon fishery under this paragraph, but the person who holds two entry permits for a salmon fishery may not engage in fishing under

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the second entry permit.

Sec. 16.43.150. Terms and conditions of entry permit; annual renewal. (a) Except as may be otherwise provided under AS 16.43.270(d), an entry permit authorizes the permittee to operate a unit of gear within a specified fishery.

(b) The holder of an entry permit shall have the permit in possession at all times when engaged in the operation of gear for which it was issued.

(c) Each entry permit is issued for a term of one year and is renewable annually.

(d) Failure to renew an entry permit for a period of two years from the year of last renewal results in a forfeiture of the entry permit to the commission, except as waived by the commission for good cause. An entry permit may not be renewed until the fees for each preceding year during which the entry permit was not renewed are paid. However, failure to renew an entry permit in a year in which there is an administrative closure for the entire season for a specific fishery is good cause not to renew the entry permit. The commission shall waive the payment of fees for that year.

(e) An entry permit constitutes a use privilege that may be modified or revoked by the legislature without compensation.

(f) Except for permits that are not transferable under AS 16.43.170(e), an entry permit survives the death of the holder.

(g) Except as provided in AS 16.10.333 – 16.10.338, AS 44.81.215, 44.81.225, and 44.81.231 – 44.81.250, an entry permit may not be

(1) pledged, mortgaged, leased, or encumbered in any way;

(2) transferred with any retained right of repossession or foreclosure, or on any condition requiring a subsequent transfer; or

(3) attached, distrained, or sold on execution of judgment or under any other process or order of any court, except as provided in AS 16.43.170(g) and (h).

(h) Unless an entry permit holder has expressed a contrary intent in a will that is probated, the commission shall, upon the death of the permit holder, transfer the permanent permit by right of survivorship directly to the surviving spouse or, if no spouse survives, to a natural person designated by the permit holder on a form provided by the commission. If no spouse survives and if the person designated on the form, if any, does not survive, the permit passes as part of the permit holder's estate. A designation under this subsection must be acknowledged before a person authorized to administer an oath under AS 09.63.010 or must be witnessed by two persons who are qualified under AS 13.12.505 to witness the will of the permit holder. Except as provided in AS 16.10.333 – 16.10.337, AS 44.81.215, and 44.81.231 – 44.81.250, the permit is exempt from the claims of creditors of the estate.

(i) The holder of a transferable or nontransferable entry permit or of an interim-use permit may voluntarily relinquish the permit to the commission.

Sec. 16.43.225. Moratorium on new entrants into certain fisheries. (a) Subject to (b) of this section, the commission may establish a moratorium on new entrants into a fishery

(1) that has experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(2) that has achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

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(3) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

(b) The commission may establish a moratorium on new entrants into a fishery described in (a) of this section if

(1) the commissioner of fish and game, subject to AS 16.05.251(g), petitions the commission under AS 44.62.220 to establish a moratorium on new entrants into the fishery; and

(2) the commission finds that

(A) the fishery has reached a level of participation that may threaten the conservation and the sustained yield management of the fishery resource and the economic health and stability of commercial fishing; and

(B) the commission has insufficient information to conclude that the establishment of a maximum number of entry permits under AS 16.43.240 would further the purposes of this chapter.

(c) The commission may establish a moratorium under this section for a continuous period of up to four years. A fishery that has been subject to a moratorium under this section may not be subjected to a subsequent moratorium under this section unless five years have elapsed since the previous moratorium expired.

(d) While a moratorium is in effect, the commission shall conduct investigations to determine whether a maximum number of entry permits should be established under AS 16.43.240 by

(1) conducting research into conditions in the fishery;

(2) consulting with the Department of Fish and Game and the Board of Fisheries;

and

(3) consulting with participants in the fishery.

(e) The commission shall establish by regulation the qualifications for applicants for an interim-use permit for a fishery subject to a moratorium under this section. The qualifications must include the minimum requirements for past or present participation and harvest of the fishery. The commission may not issue an interim-use permit for a fishery subject to a moratorium under this section unless the applicant can satisfy the qualifications established under this subsection and establish the present ability and intent to participate actively in the fishery.

Sec. 16.43.950. Applications of regulations of Board of Fisheries. Nothing in this chapter limits the powers of the Board of Fisheries, including the power to determine legal types of gear and the power to establish size limitations or other uniform restrictions applying to a certain type of gear. Holders of interim-use permits or entry permits issued under this chapter are subject to all regulations adopted by the Board of Fisheries.

POLICY ON KING AND TANNER CRAB RESOURCE MANAGEMENT
(90-04-FB, March 23, 1990)

GOAL AND BENEFITS:

It is the goal of the Alaska Board of Fisheries and the Alaska Department of Fish and Game to manage king and Tanner crab stocks in a manner that will protect, maintain, improve, and extend these resources for the greatest overall benefit to Alaska and the nation. Achievement of this goal is necessarily constrained by the requirement to minimize: (1) risks of irreversible adverse effects on reproductive potential; (2) harvest during biologically sensitive periods of the life cycle; (3) adverse interactions with other fish and shellfish stocks and fisheries.

Management of these fisheries for the purpose of achieving this goal will result in a variety of benefits which include, but are not limited to, the following:

- (1) maintaining healthy stocks of king and Tanner crabs of sufficient abundance to insure their continued reproductive viability and the maintenance of their role in the ecosystem;
- (2) providing a sustained and reliable supply of high quality product to the industry and consumers which will provide substantial and stable employment in all sectors of the economy relating to these fisheries; and
- (3) providing opportunities for subsistence and personal use fisheries on these stocks.

The Alaska Board of Fisheries also recognizes the benefits of managing for the highest socioeconomic benefit when such action does not conflict with the previously mentioned biological constraints.

POLICIES:

To achieve the management goal and provide the benefits available from these resources, it is necessary to set policies which will protect stocks and provide for optimum utilization of these resources. It is the policy of the Alaska Board of Fisheries to:

1. Maintain crab stocks comprised of various size and age classes of mature animals in order to maintain the long term reproductive viability of the stock and reduce industrial dependency on annual recruitment, which is extremely variable. Benefits of this policy are most apparent when weak recruitment occurs. As population abundance and structure change with declining recruitment, harvests should be reduced.
2. Routinely monitor crab resources to provide information on abundance of females as well as prerecruit, recruit, and postrecruit males. This is necessary to detect changes in the population which may require adjustments in management to prevent irreversible damage to the reproductive potential of each stock and to better achieve the benefits listed above. Harvests must be conducted in a conservative manner in the absence of adequate information on stocks.
3. Protect king and Tanner crab stocks during biologically sensitive periods of their life cycle. Closure of the fishing season is necessary at times surrounding the annual mating, molting, and egg hatching periods in order to reduce unnecessary mortality of soft animals, disturbance during mating, and damage to egg clutches.

4. Minimize handling and unnecessary mortality of non-legal crabs and other non-target animals. Capture and handling of females, sublegal males, and animals of other species results in a loss of reproductive ability and biomass that may be detrimental to a stock.
5. Maintain an adequate brood stock to rebuild king or Tanner crab populations when they are depressed. Maintenance of an adequate brood stock takes precedence over short term economic considerations. When populations are at or below threshold, the minimum stock size that allows sufficient recruitment so that the stock can rebuild itself, fisheries must be closed and must remain closed until there is adequate brood stock.
6. Establish management measures in each fishing area based on the best available information. Stock and fishery characteristics, as well as available data, vary from area to area within Alaska. Actual management practices in each area will vary accordingly.
7. Establish regulations which will help improve the socioeconomic aspects of management by: harvesting crab when their meat yield is highest; providing for fair starts and closures to seasons; insuring enforceability of regulations; and other measures providing for an orderly fishery.

The Board recognizes these policies may not result in maximization of physical or economic yield. They will, however, provide better biological protection and help preserve the reproductive viability of king and Tanner crab stocks which inherently vary in abundance due to environmental conditions. It will also increase the stability and longevity of the king and Tanner crab fisheries beyond that provided by a recruits-only fishery.

MANAGEMENT MEASURES:

The following management measures are available as tools to be used in order to carry out the policies on king and Tanner crab management. Individual measures should be applied as necessary in areas and fisheries depending on available information and fishery characteristics.

1. **Harvest Rates.** Harvestable surpluses available from king and Tanner crab stocks depend on the size and condition of the individual stock. Harvest rates represent the percentage of the legal stock that may be harvested during the biological season in accordance with the goal and policies of the Board.

Exact harvest rates in each situation are chosen based on abundance of prerecruit males and females as well as legal males, the established minimum size or the actual size of crab landed, percentage of females bearing eggs, and the ratio of recruit to postrecruit males. When the acceptable annual harvest rate has been reached in an area, that area must be closed to fishing. Changes in harvest rates should appear in fishery management plans to be reviewed by the public and the Board.

When stock abundance and condition in a management area are such that there is no harvestable surplus, the area or a portion of the area must be closed to fishing. Such areas must remain closed to fishing until the stock recovers to a level WHICH IS EXPECTED TO PRODUCE A SUSTAINED HARVESTABLE SURPLUS.

2. **Size Limits.** Size limits have a dual role in management. They provide some protection against overharvest and also provide for improved product quality. To provide for protection against overharvest on stocks where harvest rates are unknown or difficult to regulate, size limits are set to increase the probability of mating prior to harvest. For example, in some cases king crab size limits have been set at two average molt increments above the estimated average size at maturity and Tanner crab size limits have been set at one average molt increment above estimated average size at maturity because Tanner crab are known to produce multiple egg clutches from a single mating.

Smaller size limits may be established where stock size is accurately known and harvest rates are precisely controlled since harvest rates will have to be lowered to prevent overfishing.

Larger size limits may be established to insure better marketability of the crab or provide increased long term yield by limiting harvest of animals below a suboptimal size.

3. **Sex Restrictions.** Harvest of king and Tanner crabs is limited to males only in an attempt to provide full fertilization of females and increase the chances of reproductive success. This is particularly important at low stock levels. During periods of average or high abundance, in areas where stock size is accurately known and harvest rates are precisely controlled, this restriction may be eliminated if it is demonstrated that the abundance of females results in no increase in recruitment to the fishery.

4. **Fishing Seasons.** Biological seasons should be set to minimize the harvest of king and Tanner crabs during times surrounding the annual mating, molting, and egg hatching periods and for a sufficient time after molting to allow safe handling and acceptable product quality. Within the acceptable biological fishing season, actual fishing times may be further modified for economic reasons, such as to ensure high meat content of legal males and to reduce dead loss in the landings.

5. **Guideline Harvest Levels (GHL).** A preseason estimate of the level of allowable king and Tanner crab harvest is established for each fishery. In those fisheries with accurate population estimates the appropriate harvest rate is applied to the best point estimate to determine the GHL. For those fisheries without surveys or historical catch information adequate for estimating the population size, the GHL will be set based on historical fishery performance, catch, and population trend.

6. **Closed Areas.** To minimize the handling and unnecessary mortality of non-legal and/or molting crabs, or to prevent conflicts with other fisheries or stocks, it may be necessary to close portions of management areas.

7. **Gear Types.** Fishing for king and Tanner crabs is limited to pots, ring nets, or diving gear depending on area. This type of gear provides the most manageable type of fishery while minimizing potential damage to target and non-target portions of the stock or other species. Biodegradable panels are required in pots to minimize adverse effects of lost gear. Escape rings, large mesh panels, or other measures may be required in gear to meet the policies of the Board.

8. **Inseason Adjustments.** Inseason adjustments may be made to the guideline harvest level and length of the fishing season. Information upon which such adjustments are based

may include: (1) overall fishing effort; (2) catch per unit of effort and rate of harvest; (3) relative abundance of king or Tanner crabs; (4) achievement of guideline harvest level (GHL); (5) proportion of soft-shelled crabs and rate of dead loss; (6) general information on stock condition including adequacy of reproductive stock; (7) timeliness and accuracy of catch reporting; (8) adequacy of subsistence harvests; (9) THE IMPACT OF SEVERE OR UNEXPECTED ENVIRONMENTAL CONDITIONS ON THE HANDLING AND TRAPPING MORTALITY OF CRAB; and (10) other factors that affect ability to meet objectives of the policy. When this information shows that continued fishing effort would jeopardize the reproductive viability of king or Tanner crab stocks within a registration area, or continued fishing would be counter to the goal and policies established by the Board, the registration area or a portion of the registration area will be closed by Emergency Order.

9. **Other Measures.** To meet the goal and policies for management of these fisheries, it may be necessary for the Board to adopt additional regulations OR MANAGEMENT MEASURES. CONTROLLING DISEASE, REDUCING HANDLING AND TRAPPING MORTALITY DURING SEVERE OR UNEXPECTED ENVIRONMENTAL CONDITIONS, SPECIFYING registration requirements, tank inspections, gear storage, gear limitations, and other measures including regulation of other shellfish and finfish fisheries may be necessary in order to promote the protection and best overall usage of the king and Tanner crab resource toward the stated goal.