

ALASKA BOARD OF FISHERIES FINDING OF EMERGENCY

The Alaska Board of Fisheries (board) finds that an emergency exists and that the attached regulations are necessary for the immediate preservation of the general welfare. These regulations will allow harvest of a limited number of king salmon in the Upper Yentna River subsistence salmon fishery. The facts constituting the emergency include the following.

Background

Current subsistence regulations include a negative customary and traditional use determination for king salmon, and a positive finding for other salmon in the Yentna River drainage in 5 AAC 01.566(a)(1)(C). In 5 AAC 01.593(3)(C), permit holders in the Upper Yentna River subsistence salmon fishery harvest salmon by fish wheel, shall be present to attend the fish wheel at all times while the fish wheel is in operation, and must return king salmon and rainbow trout alive to the water.

In March 2018, the department issued Emergency Order 2-KS-2-10-18 restricting the Deshka and Yentna rivers to catch-and-release and closing the remainder of the Susitna River drainage to sport fishing for king salmon. The Northern District commercial set gillnet fishery was also closed for the 2018 directed king salmon fishery; no commercial fishery will occur until June 25. This action was taken due to a forecast for a weak run of king salmon in 2018.

These emergency regulations have been adopted in response to an emergency petition submitted by the Mt. Yenlo Fish and Game Advisory Committee. The petition asked the board to revise its customary and traditional use determination for salmon in the Yentna River drainage to add king salmon to the finding, and adopt regulations allowing the harvest of king salmon in the Upper Yentna River subsistence fishery. In 1998, the board adopted into regulation a positive customary and traditional use finding for salmon in the Yentna River drainage. At the same meeting, the board adopted regulations for a subsistence fishery for salmon in a portion of the Yentna River that conformed to the existing personal use fishery and prohibited the retention of king salmon. The positive customary and traditional use finding for salmon was in regulation from 1998 until 2011, when the board modified the finding to exclude king salmon. In the Yentna River drainage king salmon are harvested under sport fishing regulations. The petition alleges that there is a small harvestable surplus of this king salmon stock. The petition further alleges that, because of the closure of king salmon harvest in the sport fishery, emergency regulations are needed or this surplus will be unharvested and unavailable in the future without regulations allowing king salmon to be harvested in the subsistence fishery. The petition further alleges that users in this fishery have come to rely on king salmon harvest in the beginning of the summer when there are no other fish and game resources available.

Finding of Emergency

Under AS 44.62.250, the board may adopt an emergency regulation if it makes a written finding that the adoption of the regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare. Under state policy emergencies are held to a minimum and are rarely be found to exist.

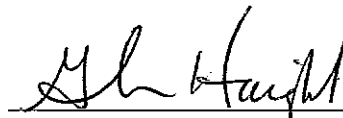
The board finds that there is an emergency because it was somewhat unexpected that harvest of king salmon would not be allowed in the sport fishery in the Yentna River drainage, that a harvestable surplus of this king salmon stock may exist, and that this harvest would be precluded by delayed regulatory action and not available in the future. Before this year, this area had not been closed to the harvest of king salmon at the outset of the sport fishing season since 1979. The board acknowledges that the department has closed the sport fishery in the Susitna River drainage in 2018 to the harvest of king salmon because of a forecast of a low run. However, that action by the department was taken in light of current regulations which do not appear to provide a way for the department to open a fishery in the Yentna River drainage and allow a small and manageable harvest of king salmon. After reviewing the customary and traditional criteria in 5 AAC 99.010(b), the board finds that the Upper Yentna River king salmon stock is customarily and traditionally taken for subsistence. The board further finds that the emergency regulations are needed to allow a harvest of king salmon and provide a reasonable opportunity for subsistence uses.

ORDER CERTIFYING ADOPTION

I certify that the Board of Fisheries, under the authority of AS 16.05.251 and 16.05.258, adopted at its May 14th 2018 meeting the attached 4 pages of regulation changes as an emergency regulation to take effect immediately upon filing by the lieutenant governor, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

Date: May 16, 2018



Glenn Haight, Executive Director
Alaska Board of Fisheries
Department of Fish and Game

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on _____, 2018, at _____m., I filed the attached regulation according to the provisions of AS 44.62.

Byron Mallott, Lieutenant Governor
State of Alaska

Effective: _____.

Register: _____.



Alaska Department of Fish and Game
Board of Fisheries


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**ALASKA BOARD OF FISHERIES
DELEGATION OF AUTHORITY TO THE COMMISSIONER**

2018-290-FB

Under the authority of AS 16.05.270, the Alaska Board of Fisheries delegates authority to the commissioner to adopt regulations and comply with AS 44.62.040(c), 44.62.060, and AS 44.62.190 – 44.62.215 with respect to the emergency regulations the board adopted on May 14, 2018 for the Upper Yentna River subsistence salmon fishery.

DATED: May 14, 2018
Juneau, Alaska



John Jensen, Chairman

Vote: 6-0 (Johnson absent)

EMERGENCY REGULATION

Register _____, _____ 2018 FISH AND GAME

Title 5. Fish and Game.

Chapter 01. Subsistence Finfish Fishery.

Article 11. Cook Inlet Area.

5 AAC 01.566(a)(1)(C) is amended to read:

(C) salmon [,OTHER THAN KING SALMON,] in the Yentna River drainage outside the Anchorage-Matsu-Kenai Nonsubsistence Area described in 5 AAC 99.015(a)(3);

(Eff. 5/14/93, Register 126; am 5/6/94, Register 130; am 6/7/95, Register 135; am 9/29/95, Register 135; am 2/24/96, Register 137; am 5/31/96, Register 138; am 5/31/98, Register 146; am 4/22/99, Register 150; am 3/11/2001, Register 157; am 3/8/2002, Register 161; am 5/21/2011, Register 198; am ____/____/2018, Register____)

Authority: AS 16.05.251 AS 16.05.258

5 AAC 01.593 is amended to read:

5 AAC 01.593. Upper Yentna River subsistence salmon fishery. In the Yentna River drainage outside the Anchorage-Matsu-Kenai Nonsubsistence Area described in 5 AAC 99.015(a)(3), salmon [,OTHER THAN KING SALMON,] may be taken for subsistence purposes only as follows:

- (1) under a subsistence permit issued under 5 AAC 01.015 and 5 AAC 01.580;
- (2) in the mainstem of the Yentna River from its confluence with Martin Creek upstream to its confluence with the Skwentna River from **June 1 through June 30 and** July 15

EMERGENCY REGULATION

Register _____, _____ 2018 FISH AND GAME

through August 7 from

(A) 4:00 a.m. to 8:00 p.m. Monday;

(B) 4:00 a.m. to 8:00 p.m. Wednesday; and

(C) 4:00 a.m. to 8:00 p.m. Friday;

(3) only with a fish wheel as follows:

(A) each fish wheel must be equipped with a livebox; the livebox must be constructed so that it contains no less than 45 cubic feet of water volume while it is in operation;

(B) the permit holder shall attach a wood or metal plate that is at least 12 inches high by 12 inches wide, bearing the permit holder's name and address in letters and numerals at least one inch high to each fish wheel operated under this section so that the name and address are plainly visible;

(C) the permit holder shall be present to attend the fish wheel at all times while the fish wheel is in operation, [AND KING SALMON] and rainbow trout must be returned alive to the water;

(D) for purposes of (A) of this paragraph, a "livebox" is a submerged container that is attached to the fish wheel that will keep fish caught by the fish wheel alive;

(4) the annual limit for a Yentna River subsistence fishing permit holder is as specified in 5 AAC 01.595(a)(4) [5 AAC 01.595(a)(2)];

(5) repealed 5/21/2011;[.]

(6) all salmon retained shall immediately be recorded in ink on the permit and reported to the department by noon of the day following the day of harvest by

EMERGENCY REGULATION

Register _____, _____ 2018 FISH AND GAME

telephone, email or other means as stated in the permit. (Eff. 5/31/98, Register 146; am 5/21/2011, Register 198; am 5/18/2014, Register 210; am ____/____/2018, Register _____)

Authority: AS 16.05.251 AS 16.05.258

5 AAC 01.595 is amended to read:

5 AAC 01.595. Subsistence bag, possession, and size limits.

(a) The total annual possession limit for each subsistence salmon fishing permit is as follows:

...

(2) 25 salmon for the head of a household and 10 salmon for each **additional member of the household** [DEPENDENT OF THE PERMIT HOLDER];

...

(4) Notwithstanding (a)(2) of this section, the annual possession limit for the holder of an Upper Yentna River subsistence salmon fishing permit is:

(i) 25 salmon, other than king salmon, for the head of a household, and 10 salmon, other than king salmon, for each additional member of the household; and

(ii) 5 king salmon for the head of household and 2 king salmon for each additional member of the household.

(In effect before 1981; am 4/15/81, Register 78; am 5/7/81, Register 78; am 5/23/88, Register 106; am 6/10/89, Register 110; am 7/21/91, Register 119; am/readopt 5/14/93, Register 126; am

EMERGENCY REGULATION

Register _____, _____ 2018 FISH AND GAME

2/24/96, Register 137; am 4/22/99, Register 150; am 3/8/2002, Register 161; am 5/21/2011,

Register 198; am ___/___/ 2018, Register_____)

Authority: AS 16.05.251 AS 16.05.258