

**REGULATION PROPOSAL FORM for the
ALASKA BOARD OF FISHERIES 2016-2017 MEETING CYCLE
P.O. BOX 115526, JUNEAU, ALASKA 99811-5526**

Proposals for this cycle are due April 11, 2016

**Indicates a required field*

BOARD OF FISHERIES REGULATIONS

X Subsistence X Personal Use

X Sport X Commercial

***Which meeting would you like to submit your proposal to?**

Lower Cook Inlet Area all Finfish X Upper Cook Inlet Area all Finfish

**Kodiak Area all Finfish Statewide (except Southeast/Yakutat) King and
Tanner Crab**

Please answer all questions to the best of your ability. All answers will be printed in the proposal book along with the proposer's name (address and phone numbers will not be published). Use separate forms for each proposal. Address only one issue per proposal. State the issue clearly and concisely. The board will reject multiple or confusing items.

1. Alaska Administrative Code Number 5

AAC

39.XXX

This proposal is for the Board of Fish to recommend the legislature clarify criteria for fish habitat permitting to better protect Cook Inlet's fisheries.

***2. What is the issue you would like the board to address and why?**

Cook Inlet includes both the most populated and heavily developed watersheds in Alaska as well as some of the state's largest intact salmon producing fresh water systems. As the Board of Fish Policy for the Management of Sustainable Salmon Fisheries has recognized, "in the aggregate, Alaska's salmon fisheries are healthy and sustainable largely because of abundant pristine habitat and the application of sound, precautionary, conservation management practices" 5 AAC 39.222(a)(1).

But the habitat of Cook Inlet faces combined impacts that require clearer regulation criteria to ensure continued access for Alaskans to Cook Inlet fisheries. As the state's economic hub, Cook Inlet drainages are subject to a variety of impacts to salmon habitat stemming from urbanization, non-renewable resource extraction and climate change. Operating under the precautionary principle, when specific criteria are guaranteed and planned for, development authorization should be encouraged, predictable, fair, simple, and reviewable.

Currently, Alaska's fish habitat permitting process (AS 16.05.871) lacks criteria necessary to determine whether permitting decisions will adequately protect salmon populations and related fish habitat from these threats in Cook Inlet. By law, an activity that will "use, divert, obstruct, or change the natural flow or bed of a specified river, lake or stream" requires a Fish Habitat Permit. AS 16.05.871(a). The Commissioner of the Department of Fish and Game is directed to issue the permit unless the plans for the proposed construction work are "insufficient for the proper protection of fish and game." AS 16.05.871(a). The problem is: neither the law nor regulation defines what is sufficient for the proper protection of fish and game and no review criteria exists to ensure that permitting decisions will protect resident and anadromous fish species and related fish-dependent habitat processes. We propose that the Board of Fish address this problem.

***3. What solution do you recommend? In other words, if the board adopted your solution, what would the new regulation say? (Please provide draft regulatory language, if possible.)**

The Board of Fish developed the Sustainable Salmon Policy to "ensure conservation of salmon and salmon's required marine and aquatic habitats, protection of customary and traditional subsistence uses and other uses, and the sustained economic health of Alaska's fishing communities." 5 AAC 39.222(b). This policy specifically identifies the importance of conserving fish habitat to maintain healthy salmon populations and recognizes that habitat related permitting decisions may impact the sustainability of the state's strong salmon fisheries.

Elements of this body's Sustainable Salmon Policy should be incorporated into Title 16 and applied to ADF&G permitting decisions. We propose that the Board of Fish recommends that the Alaska Legislature amend Title 16 to require the Alaska Department of Fish and Game to comply with the principles and criteria in the Board of Fish's Sustainable Salmon Policy whenever it issues a Fish Habitat Permit pursuant to AS 16.05.871.

***Submitted By:** Lindsey Bloom, Fisheries Consultant, on behalf of authors listed below

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