

Personal Use

PROPOSAL 134

5 AAC 77.699. Prohibitions.

Prohibit obstructing more than half of the stream, creek, or river when personal use fishing, as follows:

5 AAC 77.699 (d) Prohibitions – Cannot obstruct more than ½ of the fish way:

(d) A person cannot obstruct more than ½ of a stream, creek, river, bay, or fish passageway with a beach seine, gillnet, or other man-made object.

What is the issue you would like the board to address and why? In the past on Prince of Wales Island, personal use or subsistence salmon fishermen would obstruct large percentages of streams, rivers, or bays with personal use nets. There were no regulations preventing such actions. Concerned residents notified ADF&G commercial fish of the common practice and the lack of a regulation preventing a person from stretching a net across a stream. Other areas of the state have regulations preventing a person from obstructing more than half of a fish stream.

ADF&G commercial fish listed “A person cannot obstruct more than ½ of a stream, creek, river, bay, or fish passageway with a beach seine or gillnet” as a condition of a personal use /subsistence salmon permit. Adding this condition as a regulation to personal use and subsistence administration code will ensure in future years, the condition is not removed. Southeast Alaska has several small streams with small runs of desired salmon species. The only suggested change to the condition if passed into regulation is the addition of a man-made object. People have been observed using vessels such as a barge or sport boats in addition to their nets to capture the maximum amount of fish as they can.

PROPOSED BY: East Prince of Wales Fish and Game Advisory Committee (EF-F20-096)

PROPOSAL 135

5 AAC 77.682. Personal use salmon fishery.

Allow permits to be issued for the personal use taking of king and coho salmon, as follows:

5AAC 77.682(c) [THE DEPARTMENT SHALL NOT ISSUE A PERMIT FOR THE TAKING OF KING OR COHO SALMON, BUT] King and coho salmon taken incidentally by gear operated under terms of a personal use permit for other salmon are legally taken and possessed for personal use purposes.

What is the issue you would like the board to address and why? Delete the first phrase in this regulation that prohibits issuance of personal use permits for taking of King and Coho salmon. This regulation is contrary...

- to statute AS16.05.251(d) which requires "fair and reasonable" personal use fishing opportunities.
- to regulation 5AAC 77.001 which describes the intention of the personal use fishing category to provide "efficient" harvesting of fish for personal use by residents who are precluded from participating in subsistence fisheries.
- to 5AAC 77.001(b) which states a personal use fishery will be allowed when..... "in the broad public interest".
- to AG opinion which supports 5AAC 77.001 and AS16.05.251 and "Legislative History", which states the legislative intent to "require" the board to provide "fair and reasonable" opportunity for personal use fishing. See e.g. 1985 House J. 584-585, 920-921, 1230-1231(letters of intent) secs, 3. 11. ch.52 SLA 1986.
- to the intent and spirit of both the Legislature and the Board of Fisheries.
- Also, this regulation inhibits even considering king and coho for personal use fisheries.

PROPOSED BY: Michael Fox

(EF-F20-026)

PROPOSAL 136

5 AAC 77.682. Personal use salmon fishery.

Include commercial harvested salmon to fish that may not be possessed on the same day sport or personal use salmon are taken, as follows:

No person may possess personal use-taken and sport taken **or commercial taken salmon** on the same day.

What is the issue you would like the board to address and why? To help prevent personal use fishing as a method of illegal commercial fishing.

PROPOSED BY: Michael Fox

(EF-F20-024)

PROPOSAL 137

5 AAC 77.682. Personal use salmon fishery.

Prohibit personal use proxy permits at Sweetheart Creek, as follows:

The use of proxies for the sweetheart creek personal use fishery is not permitted.

What is the issue you would like the board to address and why? It is not uncommon for some participants in the Sweetheart Creek Personal Use fishery to fish a proxy along in addition to their personal limit. The issue is there are limited spots to successfully harvest fish along Sweetheart Creek. Fishery participants with proxy permits -- especially groups in possession of multiple proxy permits -- naturally take more time to fill their proxy permits and thereby limit access by other people wishing to participate in the fishery.

The limit of 25 for Sweetheart Creek was established arbitrarily using the justification of "fairness", as noted in the findings document 2016-281-FB.

Allowing the use of proxies is contrary to the justification of fairness used to set the limit of 25, as it makes it more difficult for some fishery participants to access productive spots along the creek if other participants are in those spots for extended periods of time while essentially filling two (2) limits.

I understand that some members of the community benefit from these proxy fish, but given there is no annual harvest limit, they could simply have people who would normally fish proxies for them return to the creek to harvest another limit.

PROPOSED BY: Nicholas Orr (EF-F20-029)

PROPOSAL 138

5 AAC 77.682. Personal use salmon fishery.

Create salmon personal use fisheries in marine waters of the Juneau Management Area, as follows:

Require ADF&G to issue personal use permits for "efficient" harvest of sockeye salmon in the marine waters of the Juneau Area.

What is the issue you would like the board to address and why? Currently there is very little opportunity for personal use harvest of sockeye in the Juneau area. Statute (AS16.05.251) requires a fair and reasonable opportunity to personal use fish. Legislative intent is to provide fair and reasonable opportunity to personal use fish. The intent of the personal use fishing category is to provide "efficient" harvest by residents (5AAC 77.001).

Regulation 5AAC 77.682 says ...

(a) Salmon may only be taken under the authority of a personal use fishing permit.

(h) Salmon may be taken at any time except...(1) as may be restricted under the terms of a personal use fishing permit.

Yet; contrary to Legislative Intent, and the underlying intent of the creation of the personal use fishing category; ADF&G does not provide "fair and reasonable" or "efficient" harvest opportunities in the Juneau area.

PROPOSED BY: Michael Fox (EF-F20-054)

PROPOSAL 139

5 AAC 77.682. Personal use salmon fishery.

Modify where personal use fishing can occur in the Taku River to include all of Section 11-B and remove dates when the fishery can occur, as follows:

The proposed solution is to provide ADF&G management with the authority (under 5 AAC 77.682) to issue personal use permits for harvest of Taku River sockeye salmon using gillnet gear in marine waters of District 111. Permits would limit the time and area so as to eliminate conflicts with commercial fishing and address specific stock concerns. The simplest solution would be to repeal 5 AAC 77.682 (h)(3) [(3) IN THE TAKU RIVER DRAINAGE, SOCKEYE SALMON MAY BE TAKEN ONLY IN WATERS FROM THE TAKU RIVER LODGE UPSTREAM TO THE UNITED STATES/CANADA BORDER AND ONLY FROM JULY 1 THROUGH JULY 31.] and replace 5 AAC 77.682 (n)(1) with **sockeye salmon may be taken for personal use in section 11B under conditions specified in a household personal use permit** [SOCKEYE SALMON MAY NOT BE TAKEN FOR PERSONAL USE], and except that in the following waters sockeye salmon may be taken with the following possession and annual limits:

What is the issue you would like the board to address and why? The accessibility, availability, and quality of personal use sockeye salmon for Juneau fishermen in District 111 is severely limited, resulting in the inability of many Juneau residents to realize a fair and reasonable opportunity to harvest sockeye salmon, contributes to over-escapement of Taku River sockeye salmon, and reduces the justification for current catch-sharing agreements between Alaska and Canada. Personal use fishing is currently limited to the upper U. S. section of the Taku River (above Taku River Lodge to the Canadian Border) and Sweetheart Creek, a small creek approximately 37 miles from Juneau. The opportunity to harvest returning salmon is seriously limited by weather, equipment needs, and competition with other users. Unharvested fish in the marine waters contribute to over-escapement (2015-2017 escapements averaged 168% of the upper escapement goal), failure to achieve maximum sustained yield, and possible detrimental impacts on production. And the inability to harvest U. S. allowable catch limits (the commercial gillnet fishery only caught a 2015-2017 average of 53% of the U. S. allowable catch) could result in catch sharing agreements being reexamined in future U.S./Canada negotiations.

PROPOSED BY: John Clark (HQ-F20-042)

PROPOSAL 140

5 AAC 77.682. Personal use salmon fishery.

Add section 11-B as a personal use salmon fishing area when the area is closed to the commercial drift gillnet fishery, as follows:

(C) Taku Inlet - Commercial Fishing District 11B during periods closed to commercial fishing: the possession and annual limit are as specified in (f) of this section.

What is the issue you would like the board to address and why? Provide Juneau area residents with a fair and reasonable opportunity to personal use fish for sockeye salmon. As required by statute AS16.05.251(d) and pursuant to the underlying purpose of the board's creation of the personal use fishing category to allow efficient harvesting of fish by individuals who were precluded from participating in subsistence fisheries. (ref. AG opinion dated 3/21/96 #663-96-0266).

PROPOSED BY: Mike Fox (EF-F20-021)

PROPOSAL 141

5 AAC 77.682. Personal use salmon fishery.

Add section 11-B as a personal use salmon fishing area when the area is closed to the commercial drift gillnet fishery, as follows:

5AAC 77.682(h) Salmon may be taken anytime except

(4) in commercial fishing district 11B, sockeye salmon may be taken only during periods closed to commercial fishing.

What is the issue you would like the board to address and why? Provide Juneau area residents a fair and reasonable opportunity to personal use fish for sockeye salmon. And, to provide a personal use sockeye fishery in marine waters.

Juneau Residents are precluded from Federal subsistence fisheries, and the State has designated Juneau area waters as non-subsistence.

5AAC 77.001 states the intent of the personal use category is to provide "efficient" harvesting by residents precluded from subsistence fisheries. AS16.05.251(d) requires "fair and reasonable" personal use opportunities. Legislative Intent is to "require" the Board of Fish to provide "fair and reasonable" opportunity for personal use fishing. See e.g. 1985 House J.584-585, 920-921, 1230-1231 (letters of intent) secs, 3. 11. ch.52 SLA 1986.

PROPOSED BY: Michael Fox (EF-F20-027)

PROPOSAL 142

5 AAC 77.678. Personal use smelt fishery.

Establish bag and possession limits and lawful gear for smelt fishing in the Ketchikan area, as follows:

5 AAC 77.678 Smelt may be taken for personal use at any time **in Ketchikan District**
(1) The daily and possession limit is 50 pounds per individual

(2) Allowed gear: dip nets and throw nets
Proxy fishing allowed on behalf of qualified fishing permit holders

What is the issue you would like the board to address and why? Firstly, the Ketchikan Indian Community Tribal Government (KIC) strongly supports the Customary and Traditional Use designation for ooligan on the Unuk River. Secondly, KIC does not support a commercial ooligan fishery in Ketchikan Management Area and would like it stricken from the fishing regulations. Thirdly, KIC supports the following proposal that would support limited access to harvestable ooligan resources until such a time as native fishing rights are fully and adequately addressed.

The Department of Fish and Game has been closing the eulachon (ooligan) fishery on the Unuk River and elsewhere in Ketchikan District since 2005. This has been a customary and traditional use area for indigenous people in the region and a source of subsistence and trade. Ooligan as the native peoples call this small anadromous fish have been eaten fresh smoked and been converted to ooligan grease. This cultural practice has been all but eliminated for over a decade and elders have been deprived of this subsistence resource and young people have not been exposed to harvesting, eating and preparing ooligan an important part of their cultural heritage. The eulachon population levels on the Unuk River and elsewhere in SE Alaska are not accurately known due to insufficient monitoring. Allowing fishing with adequate harvest reporting would provide additional information not currently being collected on population trends, and can be used to adaptively manage the fishery based on creel census and the additional catch per unit effort information rather than taking the very conservation approach of annually closing the fishery altogether. If ooligan are present in numbers that warrant the effort and expense of harvesting small amounts for personal use the ADFG should allow for this culturally significant fishery. Due to a very narrow harvest window coupled with the challenges of getting to the Unuk River and other known spawning areas; the unpredictability of eulachon timing; and variation in spawning locations it is expected any personal-use harvest impacts would be minimal, even without a bag limit. With the addition of a bag limit coupled with the traditional ecological knowledge and reverence for fisheries resource possessed by tribal fisherman whom are the primary user of this resources, population levels should not be significantly impacted. In addition, fish found in isolated tide pools can and should be collected, to avoid wanton waste of trapped fish. Also, a liberal proxy fishing policy should be allowed since most tribal members in the region do not have the ability to access the ooligan resources due to distance from population centers. There is a high cost of travel associated with fishing for ooligan in locations such as the Unuk River; a small bag limit makes such travel unfeasible.

PROPOSED BY: Ketchikan Indian Community (HQ-F20-053)
