

**NOTICE OF PROPOSED CHANGES IN THE COMMERCIAL FISHING  
REGULATIONS IN TERMINAL HARVEST AREAS IN SOUTHERN SOUTHEAST  
ALASKA, ADMINISTRATIVE REGULATIONS OF HATCHERY OPERATIONS AND  
REGULATION OF AQUATIC PLANTS, AMPHIBIANS AND INVASIVE SPECIES OF  
THE ALASKA DEPARTMENT OF FISH & GAME AND THE ALASKA BOARD OF  
FISHERIES**

The Alaska Department of Fish and Game is proposing to add regulations to open a joint common property and cost recovery assessment fishery for hatchery-produced king salmon for cost recovery by the hatchery permit holder in the Neets Bay, Carroll Inlet and Anita Bay terminal harvest areas. Additionally, changes proposed include amending regulations administrative in nature concerning hatchery operations, including permitting and reporting requirements. The commissioner of the Department of Fish and Game, under a delegation of authority issued by the Alaska Board of Fisheries is also proposing to adopt regulations of amphibians and classification and prohibitions of invasive species.

The commissioner of the Department of Fish and Game proposes to adopt regulation changes in Title 5 of the Alaska Administrative Code (AAC) including the following:

- (1) **5 AAC 33.370. District 1: Neets Bay Hatchery Salmon Management Plan** is proposed to be changed to open a joint common property and cost recovery assessment fishery for hatchery-produced king salmon in the Neets Bay terminal harvest area open to all commercial fishing gear groups with dates of openings and closures to be established by emergency order.
- (2) **5 AAC 33.379. Carroll Inlet Terminal Harvest Area Salmon Management Plan** is proposed to be changed to open a joint common property and cost recovery assessment fishery for hatchery-produced king salmon in the Carroll Inlet terminal harvest area open to all commercial fishing gear groups with dates of openings and closures to be established by emergency order.
- (3) **5 AAC 33.383. District 7: Anita Bay Terminal Harvest Area Salmon Management Plan** is proposed to be changed to open a joint common property and cost recovery assessment fishery for hatchery-produced king salmon in the Anita Bay terminal harvest area open to all commercial fishing gear groups with dates of openings and closures to be established by emergency order and to correct an outdated cross reference.
- (4) **5 AAC 40.350. Public notice** is proposed to be changed to revise language to more effectively provide notice of a planning team meeting.
- (5) **5 AAC 40.840. Annual management plans** is proposed to be changed to define parameters required for the Annual management plans, state considerations for the development of the plans and add a provision to allow for actions to be taken outside of the management plan under emergency order authority. Also language is proposed to be added requiring submission of a draft plan by April 1.

- (6) **5 AAC 40.850. Notice of permit alteration** is proposed to be changed to remove unnecessary language and adding language defining consequence of the issuance of a Notice of Permit Alteration.
- (7) **5 AAC 41.250. Permit conditions** is proposed to be changed to add language to require that aquatic plants commercially or recreationally harvested be separated by harvest method.
- (8) **5 AAC 93.330. Hatchery salmon use authorization** is proposed to be changed to remove language requiring buyers and processors utilized by the hatchery operator be identified prior to operating, correct cross references, remove unnecessary or obsolete language and repeal language administrative regulations, including certain reporting and record keeping requirements.
- (9) **5 AAC 93.350. General authorizations for use of salmon** is proposed to be changed regarding reporting requirements for disposal of salmon carcasses from which milt or eggs are extracted under a permit issued by the department and accounting procedures.

The commissioner of the Department of Fish and Game, under a delegation of authority issued by the Alaska Board of Fisheries (board) under AS 16.05.270, proposes to adopt regulation changes in Title 5 of the Alaska Administrative Code (AAC) including the following:

- (1) **5 AAC 41.005. Permit required** is proposed to be changed to add language to include all lands of the state for fish transport or aquatic resource permit requirements.
- (2) **5 AAC 41.070. Prohibitions on importation and release of live fish** is proposed to be changed to add language to include all lands of the state for the stocking or rearing prohibitions of live animals, including ornamental fish, update cross reference of prohibited species listing and to add language to cross reference prohibited amphibian species listing with department and federal regulations.
- (3) **5 AAC 41.075. Classification of banned invasive species** is proposed to be added to provide a comprehensive list of all banned invasive species by species group and to specify criteria for which the Board of Fisheries will use when making their determination of a banned invasive species listing.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Shellene L. Hutter, Regulations Program Coordinator, Department of Fish and Game, P.O. Box 115526, Juneau, AK 99811-5526. Additionally, the Department of Fish and Game will accept comments by facsimile at (907) 465-2604 and by electronic mail at [shellene.hutter@alaska.gov](mailto:shellene.hutter@alaska.gov) Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link <https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=201377>

**The comments must be received no later than 5:00 p.m. on March 14, 2021.**

You may submit written questions relevant to the proposed action to Shellene L. Hutter, Regulations Program Coordinator, Department of Fish and Game, P.O. Box 115526, Juneau, AK 99811-5526. Additionally, the Department of Fish and Game will accept questions by facsimile at (907) 465-2604 and by electronic mail at [shellene.hutter@alaska.gov](mailto:shellene.hutter@alaska.gov)

The questions must be received at least 10 days before the end of the public comment period. The Department of Fish and Game will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Shellene L. Hutter at (907) 465-6124 no later than March 8, 2021 to ensure that any necessary accommodations can be provided.

A copy of this notice of proposed regulation changes and the regulations proposed to be changed are available on the Alaska Online Public Notice System. For a copy of the proposed regulation changes contact Shellene L. Hutter, Regulations Program Coordinator at the mailing address, telephone number, or email address above or online on the department's website at:  
<https://adfg.alaska.gov/index.cfm?adfg=regulations.main>

After the public comment period ends, the commissioner of the Department of Fish and Game will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.** Written comments received are public records and are subject to public inspection.

**Statutory Authority:** AS 16.05.020; AS 16.05.050; AS 16.05.092; AS 16.05.251; AS 16.05.270; AS 16.10.400; 16.10.455; AS 16.40.100; AS 16.40.160

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 16.05.020; AS 16.05.050; AS 16.05.060; AS 16.05.092; AS 16.05.251; AS 16.05.831; AS 16.10.240; AS 16.10.375; AS 16.10.400; AS 16.10.443; AS 16.10.455; AS 16.40.100; AS 16.40.160

**Fiscal Information:** The proposed regulation changes are not expected to require an increased appropriation.

The Department of Fish and Game keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the department's notices of proposed regulation changes. To be added to or removed from the list, send a request to the Department of Fish and Game Boards Support Section at P O Box 115526 Juneau, AK 99811, by phone at (907) 465-4110, or via our website at:

<http://www.adfg.alaska.gov/index.cfm?adfg=fisheriesboard.main>

giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

DATE: 2/10/2021



Shellene L. Hutter  
Regulations Program Coordinator  
Department of Fish and Game

ADDITIONAL REGULATIONS NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Alaska Department of Fish & Game
2. General subject of regulation: commercial fishing of hatchery-produced king salmon in specified terminal harvest areas in southern southeast Alaska, modify administrative regulations of hatcheries and adopt regulations of aquatic plants, amphibians and classification and prohibitions of invasive species.
3. Citation of regulation: 5 AAC 33.370; 5 AAC 33.379; 5 AAC 33.383; 5 AAC 40.350; 5 AAC 40.840; 5 AAC 40.850; 5 AAC 41.005; 5 AAC 41.070; 5 AAC 41.075; 5 AAC 41.250; 5 AAC 93.330; 5 AAC 93.350
4. Department of Law file number, if any: 2020200620
5. Reason for the proposed action: Development of program standards
6. Appropriation/Allocation: Fish and Game Funds
7. Estimated annual cost to comply with the proposed action to:

A private person: \$0

Another state agency: \$0

A municipality: \$0

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 2021	Subsequent Years
Operating Cost	\$0	\$0
Capital Cost	\$0	\$0
1002 Federal receipts	\$0	\$0
1003 General fund match	\$0	\$0
1004 General fund	\$0	\$0
1005 General fund/ program	\$0	\$0
Other (identify)	\$0	\$0

9. The name of the contact person for the regulations:

Name: Shellene L. Hutter

Title: Regulations Program Coordinator

Address: P.O. Box 115526

Juneau, AK 99811-5526

Telephone: (907) 465-6124

E-mail address: [shellene.hutter@alaska.gov](mailto:shellene.hutter@alaska.gov)

10. The origin of the proposed action: Staff of state agency

11. Date: 2/10/2021

Prepared by:



Name: Shellene L. Hutter

Title: Regulations Program Coordinator

Telephone: (907) 465-6124

## **PROPOSED REGULATORY LANGUAGE**

### **Title 5. Fish and Game.**

#### **Chapter 33. Southeastern Alaska Area.**

#### **Article 3. Salmon Fishery.**

5 AAC 33.370 is amended by adding a new subsection to read:

(g) Instead of allowing the harvest of hatchery-produced king salmon for cost recovery by the hatchery permit holder, the commissioner may, after consultation with the hatchery operator, by emergency order, open a joint common property and cost recovery assessment fishery for king salmon as specified in AS 16.10.455 to occur only in the waters as described in (b) of this section. (Eff. 5/31/85, Register 94; am 4/18/86, Register 98; am 6/25/89, Register 110; am 6/28/97, Register 142; am 7/26/2003, Register 167; am 5/26/2006, Register 178; am 5/31/2009, Register 190; am 7/13/2012, Register 203; am \_\_\_/\_\_\_/ 2021, Register\_\_\_)

**Authority:** AS 16.05.060 AS 16.05.251 **AS 16.10.455**

5 AAC 33.379 is amended by adding a new subsection to read:

(d) Instead of allowing the harvest of hatchery-produced king salmon for cost recovery by the hatchery permit holder, the commissioner may, after consultation with the hatchery operator, by emergency order, open a joint common property and cost recovery assessment fishery for king salmon as specified in AS 16.10.455 to occur only in the waters as described in (b) of this section. (Eff. 6/17/2018, Register 226; am \_\_\_/\_\_\_/ 2021, Register\_\_\_)

**Authority:** AS 16.05.060 AS 16.05.251 **AS 16.10.455**

5 AAC 33.383(d)(3) is amended to read:

(3) except as specified in (4) [AND (5)] of this subsection, in establishing emergency order season openings for the purse seine and drift gillnet fisheries, the department shall rotate openings between these gear groups and shall provide for a time ratio for gillnet openings to seine openings of two to one;

5 AAC 33.383 is amended by adding a new subsection to read:

(g) Instead of allowing the harvest of hatchery-produced king salmon for cost recovery by the hatchery permit holder, the commissioner may, after consultation with the hatchery operator, by emergency order, open a joint common property and cost recovery assessment fishery for king salmon as specified in AS 16.10.455 to occur only in the waters as described in (a) of this section. (Eff. 6/28/97, Register 142; am 7/26/2003, Register 167; am 5/26/2006, Register 178; am 5/31/2009, Register 190; am 7/13/2012, Register 203; am 5/9/2015, Register 214; am 6/17/2018, Register 226; am 9/19/2019, Register 231; am \_\_\_\_/\_\_\_\_/ 2021, Register\_\_\_\_)

**Authority:** AS 16.05.060 AS 16.05.251 **AS 16.10.455**

## **Chapter 40. Private Nonprofit Salmon Hatcheries.**

### **Article 5. Regional Comprehensive Planning.**

5 AAC 40.350 is amended to read:

**5 AAC 40.350. Public notice.** The **chair** [CHAIRMAN] of the regional planning team, or **their** [HIS] designee, shall give two weeks' notice, **on the State of Alaska Online Public**

**Notices website** [IN A NEWSPAPER OF GENERAL CIRCULATION IN THE APPROPRIATE REGION], of a planning team meeting. **Additionally, the chair** [THE CHAIRMAN SHALL] **may use alternative methods to provide notice to the public that are specific to regional circumstances, which may include ADF&G advisory announcements, publications in a newspaper of general circulation, website postings, electronic mail distribution lists, and radio or television advertisements** [ALSO GIVE NOTICE TO RADIO AND TELEVISION STATIONS IN THE APPROPRIATE REGION, FOR BROADCAST AS NO-COST PUBLIC SERVICE MESSAGES]. (Eff. 3/31/85, Register 93; am \_\_\_/\_\_\_/ 2021, Register\_\_\_\_)

**Authority:** AS 16.05.020 AS 16.05.092 AS 16.10.375

#### **Article 8. General Provisions.**

5 AAC 40.840 is amended to read:

**5 AAC 40.840. Annual management plans.** (a) Beginning with the first year of operation of the hatchery, and on an annual basis after that, the department will prepare, in conjunction with the permit holder, an annual management plan to guide and condition hatchery operations [FOR THE SUCCEEDING CALENDAR YEAR].

**(b) Annual management plans must organize and guide the hatchery's operations regarding production goals, broodstock management and harvest management of hatchery returns. This plan shall be developed with consideration of the hatchery's production cycle. The production cycle begins with adult returns, which lead to egg takes and end**

**with fish releases. Action may be taken outside of the management plan if allowed under the hatchery permit or modified by emergency order.**

**(c)** [(b)] The PNP coordinator will organize the appropriate department staff and the permit holder in preparing a draft annual management plan. The appropriate regional planning team and the Department of Commerce, Community, and Economic Development may also review the plan. **The operator shall submit a draft plan to the department by April 1 of each year** [THIS PLAN MUST ORGANIZE AND GUIDE THE HATCHERY'S OPERATIONS, FOR EACH CALENDAR YEAR, REGARDING PRODUCTION GOALS, BROODSTOCK DEVELOPMENT, AND HARVEST MANAGEMENT OF HATCHERY RETURNS]. (**Eff.** 3/31/85, Register 93; am \_\_\_\_/\_\_\_\_/ 2021, Register\_\_\_\_)

**Authority:** AS 16.05.020 AS 16.10.375 AS 16.10.443  
AS 16.05.092 AS 16.10.400

5 AAC 40.850(a) is amended to read:

(a) A hatchery permit holder may propose alteration of the permit [AND BASIC MANAGEMENT PLAN,] based on accumulated experience and changing conditions. The permit holder shall request, on a form provided by the PNP coordinator, a permit alteration for a proposed modification to the permit or change in the basic management plan for the hatchery.

5 AAC 40.850 is amended by adding a new subsection to read:

(e) Issuance of a Notice of Permit Alteration by the department will modify the hatchery permit. (**Eff.** 3/31/85, Register 93; am \_\_\_\_/\_\_\_\_/ 2021, Register\_\_\_\_)

**Authority:** AS 16.05.020 AS 16.05.092 AS 16.10.400

**Chapter 41. Collection, Transportation, Possession, Propagation, or Release of Aquatic  
Organisms; Aquatic Farming.**

**Article 2. Permit System Established.**

5 AAC 41.005(a) is amended to read:

(a) Except as otherwise provided, a person may not collect, transport, possess, propagate, export from the state, or release into the waters **or the lands** of the state, any aquatic organism, unless the person holds a fish transport or aquatic resource permit issued by the commissioner, and the person is in compliance with all conditions of the permit and the provisions of this chapter. A fish transport or aquatic resource permit will be issued for a fixed term subject to the provisions of this section. Notwithstanding the provisions of this subsection, and except as restricted under AS 16.10.240 , a licensed processor may export live shellfish out of the waters of the state for human consumption without a fish transport permit only after complying with all applicable reporting requirements.

(In effect before 1988; am 3/14/2008, Register 186; am 7/1/2008, Register 186; am 2/24/2011, Register 197; am 1/13/2012, Register 201; am 1/10/2018, Register 225; am \_\_\_/\_\_\_/ 2021, Register\_\_\_\_)

**Authority:** AS 16.05.060 AS 16.05.251

**Article 3. General Provisions.**

5 AAC 41.070(a) is amended to read:

(a) Except as provided in (b) — (d) of this section, no person may import any live fish into the state for purposes of stocking or rearing in the waters **or the lands** of the state.

5 AAC 41.070(c) is amended to read:

(c) Ornamental fish not raised for human consumption or sport fishing purposes may be imported into the state, but may not be reared in or released into the waters **or the lands** of the state. Fish wastes and waste water from ornamental fish may not be released directly into the waters of the state.

5 AAC 41.070(e) is amended to read:

(e) A person may not import, own, possess, **propagate** [BREED], transport, distribute, release, purchase or sell within this state any species listed under 50 C.F.R. 16.13, as revised as of **September 30, 2016** [OCTOBER 1, 2002], as an injurious live, or dead fish, mollusk, crustacean, or their eggs; **and any species listed under 50 C.F. R. 16.14, as revised as of January 28, 2016, as injurious live or dead amphibians or their eggs.**

5 AAC 41.070 is amended by adding a new subsection to read:

(f) Except as otherwise provided in this chapter, a person may not possess, import, propagate, transport, release, purchase, or sell within this state a banned invasive species classified under 5 AAC 41.075. (In effect before 1988; am 9/19/90, Register 115; am 4/30/91, Register 118; am 8/8/2007, Register 183; am 2/24/2011, Register 197; am 1/10/2018, Register 225; am \_\_\_/\_\_\_/ 2021, Register\_\_\_\_)

**Authority:** AS 16.05.251

5 AAC 41 is amended by adding a new section to read:

**5 AAC 41.075. Classification of banned invasive species.** (a) In consultation with the department, the board will classify certain nonnative species as banned invasive species under this section.

(b) When considering proposals to classify a certain nonnative species as a banned invasive species, or removing a species from the list of banned invasive species specified in (c) of this section, the board will consider and determine the potential of the species to

(1) survive, grow, reproduce, and establish reproductive populations in this state;

(2) cause a genetic alteration of a species indigenous to this state;

(3) compete for food, habitat, and resources with a species indigenous to this state;

(4) degrade or make uninhabitable habitats used by species indigenous to this state;

(5) transmit a disease to a species indigenous to this state or to humans;

(6) threaten the health or population of a species indigenous to this state or to humans;

(7) cause economic or environmental harm.

(c) The following species are classified as banned invasive species:

Common Name	Scientific Name
<b><u>Amphibians</u></b>	
American bull frog	<i>Lithobates catesbeianus</i>
Pacific chorus frog	<i>Pseudacris regilla</i> or <i>Hyla regilla</i>
Red-legged frog	<i>Rana aurora</i>

## **Crustaceans**

Signal crayfish	<i>Pacifastacus leniusculus</i>
Red swamp crayfish	<i>Procambarus clarkii</i>
Rusty crayfish	<i>Orconectes rusticus</i>
European green crab	<i>Carcinus maenas</i>
Conrad's or dark false mussel	<i>Mytilopsis leucophaeta</i>

## **Fish**

Asian Carp	<i>Hypophthalmichthys</i> Genus
Yellow perch	<i>Perca flavescens</i>

## **Mollusks**

New Zealand mudsnail	<i>Potamopyrgus antipodarum</i>
Dreissenid mussels	Dreissenidae Family
Quagga mussel	<i>Dreissenia bugensis</i>
Zebra mussel	<i>Dreissenia polymorpha</i>

(d) In this section, “banned invasive species” includes any part of an organism, including reproductive or genetic material, at any stage of its life cycle. (Eff. \_\_\_\_/\_\_\_\_/ 2021, Register\_\_\_\_)

**Authority:** AS 16.05.050 AS 16.05.251

#### **Article 4. Aquatic Farming.**

5 AAC 41.250(a)(3) is amended to read:

(3) not store or otherwise possess animals **or aquatic plants** of the same species being cultured that have been commercially or recreationally harvested, unless the commercially or recreationally harvested animals **or aquatic plants** are clearly separated from cultured species, labeled, and if applicable, accompanied with a receipt of purchase;

(Eff. 4/10/88, Register 106; am 8/12/89, Register 111; am 12/16/98, Register 148; am 6/17/2001, Register 158; am 5/19/2005, Register 174; am 11/25/2005, Register 176; am 1/29/2010, Register 193; am 1/26/2012, Register 201; am \_\_\_\_/\_\_\_\_/ 2021, Register\_\_\_\_)

**Authority:** AS 16.05.050                      AS 16.40.100                      AS 16.40.160

AS 16.05.092

#### **Part 4. Department Programs.**

#### **Chapter 93. Department Programs.**

#### **Article 3. Salmon Use.**

5 AAC 93.330(c) is amended to read:

(c) Before operating under this section in any calendar year, a hatchery operator must

[(1)] submit a written notice of intent to operate to the department and

[IDENTIFY ANY PROCESSOR OR CATCHER PROCESSOR THAT WILL BE INVOLVED IN OPERATIONS; AND]

[(2)] receive a written acknowledgment from the department that the department has received a completed notice of intent to operate [AND THAT THE HATCHERY OPERATOR AND ANY PROCESSOR OR CATCHER PROCESSOR IT PROPOSES TO UTILIZE IS NOT PRECLUDED FROM OPERATING UNDER THIS SECTION].

5 AAC 93.330(d) is amended to read:

(d) After receiving the written acknowledgment described in (c) [(c)(2)] of this section, during a season opened by emergency order under this section, a hatchery operator, or an individual or company [A] working for the hatchery operator, may remove the roe from pink and chum salmon [CARCASSES] without further use of the carcasses if the [HATCHERY OPERATOR, PROCESSOR, OR CATCHER PROCESSOR, FOR EACH LOT OF SALMON CARCASSES TO BE DISPOSED

(1) BEFORE DISPOSAL, MAKES A WRITTEN DETERMINATION THAT THE] requirements of (b) of this section are met[;

(2) KEEPS WRITTEN RECORDS OF ALL DIRECT COSTS OF HARVESTING THE SALMON, REMOVING AND PROCESSING THE ROE, DISPOSING OF THE CARCASSES, MARKETING OF THE ROE, AND OF ALL REVENUE GENERATED FROM SALES OF THE ROE; AND

(3) SURRENDERS TO THE STATE ALL PROCEEDS FROM SALE OF THE ROE MINUS THE DIRECT COSTS OF HARVESTING THE SALMON, REMOVING AND PROCESSING THE ROE, DISPOSING OF THE CARCASSES, AND MARKETING OF THE ROE].

5 AAC 93.330(e) is repealed:

(e) Repealed. [A HATCHERY OPERATOR, PROCESSOR, OR CATCHER PROCESSOR SHALL RETAIN ALL RECORDS REQUIRED UNDER THIS SECTION FOR SEVEN YEARS.]

5 AAC 93.330(f) is repealed:

(f) Repealed. [BEFORE DECEMBER 15 OF A YEAR IN WHICH A HATCHERY PERMIT HOLDER SUBMITS A WRITTEN NOTICE OF INTENT TO OPERATE UNDER THIS SECTION, THE HATCHERY PERMIT HOLDER SHALL SUBMIT TO THE DEPARTMENT A WRITTEN REPORT DOCUMENTING

(1) THE NUMBER OF PINK AND CHUM SALMON CARCASSES DISPOSED OF UNDER THIS SECTION, BY SPECIES;

(2) COPIES OF THE WRITTEN RECORDS REQUIRED UNDER THIS SECTION FROM THE HATCHERY OPERATOR AND FROM ANY PROCESSOR OR CATCHER PROCESSOR WORKING FOR THE HATCHERY OPERATOR;

(3) COPIES OF RECORDS DOCUMENTING THE SURRENDER OF PROCEEDS REQUIRED BY (d)(2) OF THIS SECTION.]

5 AAC 93.330(h) is repealed:

(h) Repealed. [RECORDS MAINTAINED UNDER THIS SECTION SHALL BE PROVIDED, UPON REQUEST, TO THE DEPARTMENT, THE DEPARTMENT'S AGENT, THE DEPARTMENT OF REVENUE, OR THE DEPARTMENT OF PUBLIC SAFETY FOR INSPECTION.]

5 AAC 93.330(i) is repealed:

(i) Repealed. [A HATCHERY PERMIT HOLDER, PROCESSOR, OR CATCHER PROCESSOR DISPOSING OF PINK OR CHUM SALMON CARCASSES UNDER THIS SECTION SHALL COMPLY WITH ALL APPLICABLE STATE, FEDERAL, AND LOCAL LAWS.]

5 AAC 93.330(j) is repealed:

(j) Repealed. [A HATCHERY OPERATOR, PROCESSOR, OR CATCHER PROCESSOR MAY NOT OPERATE UNDER THIS SECTION IF NOTIFIED BY THE COMMISSIONER THAT ITS OPERATIONS ARE NOT COVERED BY THIS SECTION. THE COMMISSIONER WILL NOTIFY A HATCHERY PERMIT HOLDER, PROCESSOR, OR CATCHER PROCESSOR, IN WRITING, THAT ITS OPERATIONS ARE NOT COVERED BY THIS SECTION, IF THE COMMISSIONER DETERMINES THAT THE PERMIT HOLDER, PROCESSOR, OR CATCHER PROCESSOR HAS

(1) SUBSTANTIALLY FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION;

(2) FAILED TO SUBMIT A REPORT REQUIRED BY THIS SECTION OR TO MAINTAIN RECORDS REQUIRED BY THIS SECTION;

(3) FALSIFIED INFORMATION CONTAINED IN REPORTS OR RECORDS REQUIRED BY THIS SECTION;

(4) DISPOSED OF SALMON IN A MANNER INCONSISTENT WITH STATE, FEDERAL, OR LOCAL LAWS.]

5 AAC 93.330(l) is repealed:

(l) Repealed. [IN THIS SECTION, "DIRECT COSTS"

(1) INCLUDES SHIPPING AND STORAGE COSTS;

(2) DOES NOT INCLUDE OVERHEAD AND GENERAL MARKETING COSTS.]

(Eff. 9/30/2007, Register 183; am \_\_\_/\_\_\_/ 2021, Register\_\_\_\_\_)

**Authority:** AS 16.05.020 AS 16.05.831

The introductory language of 5 AAC 93.350(d) is amended to read:

(d) Notwithstanding AS 16.05.831(a) and 5 AAC 93.310, a person may dispose of the carcass of a salmon from which milt or eggs are extracted under a permit issued under AS

16.10.400 - 16.10.480 for lawful use as broodstock if the permit holder [FIRST DOCUMENTS MILT OR ROE EXTRACTION AND CARCASS DISPOSAL INFORMATION, ON A FORM PROVIDED BY THE DEPARTMENT, AND]

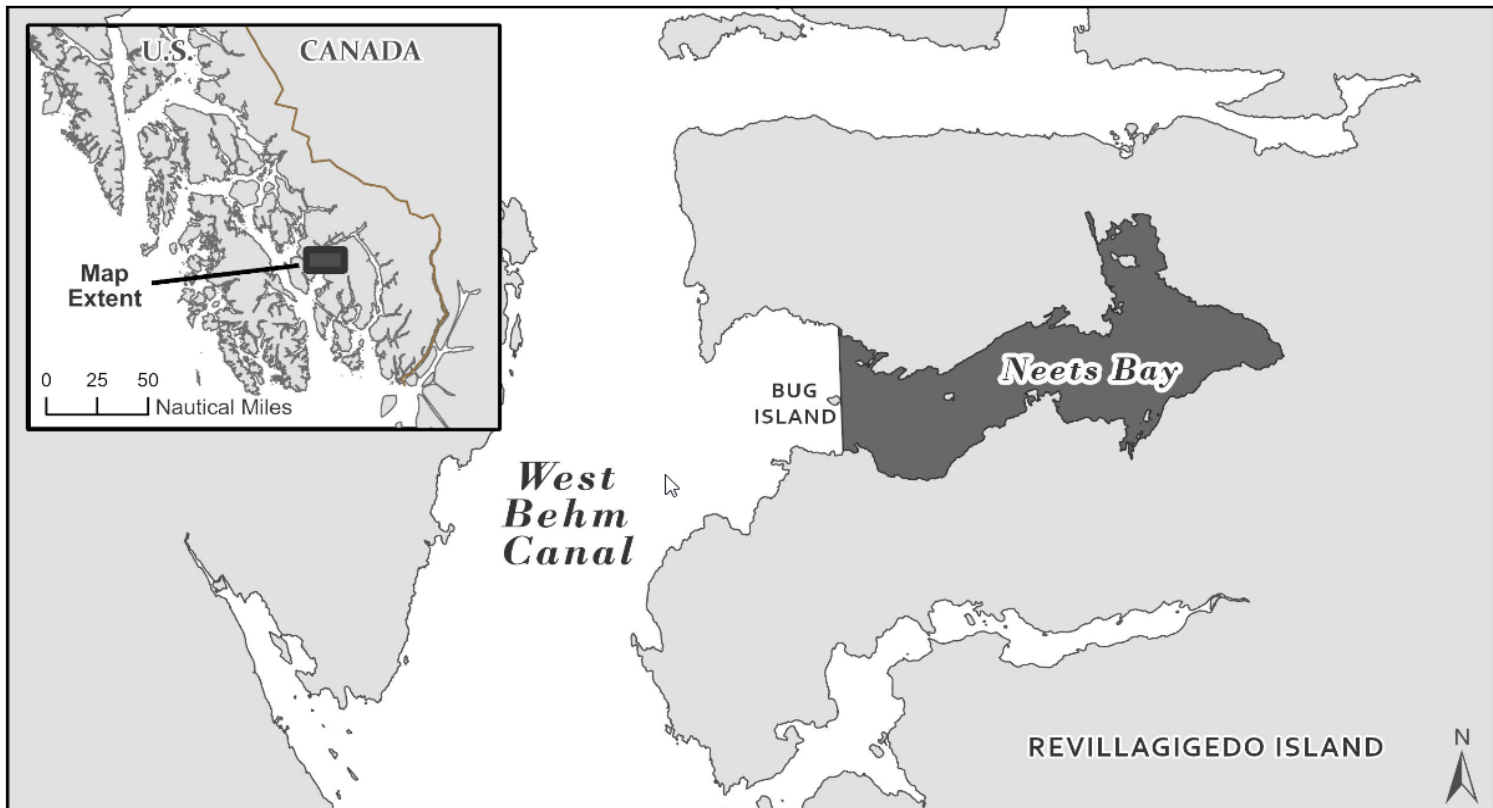
...

5 AAC 93.350(d)(2) is amended to read:

(2) immediately notifies the department, in writing, of any extraction of eggs that will not be used for fertilization that exceed the limits established in (1) of this subsection[, AND IMMEDIATELY SURRENDERS TO THE STATE ALL PROCEEDS FROM THE SALE OF EGGS EXCEEDING THE LIMITS ESTABLISHED IN (1) OF THIS SUBSECTION].

(Eff. 7/21/96, Register 139; am 8/18/2002, Register 163; am 7/16/2006, Register 179; am 9/30/2007, Register 183; am 8/15/2008, Register 187; am \_\_\_/\_\_\_/ 2021, Register\_\_\_\_)

**Authority:** AS 16.05.020 AS 16.05.831



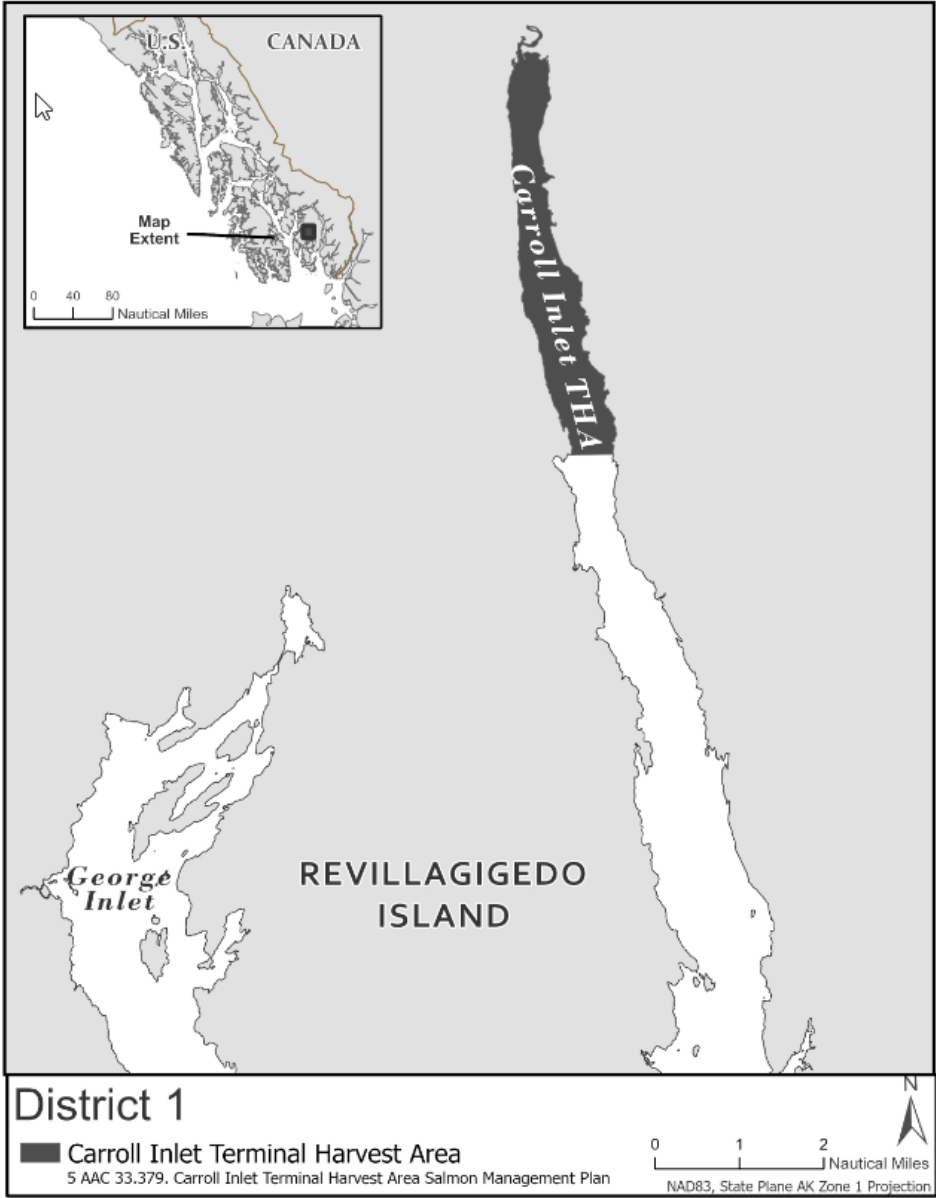
## District 1



Neets Bay Terminal Harvest Area

5 AAC 33.370. Neets Bay Terminal Harvest Area Management Plan

0 1.5 3  
Nautical Miles  
NAD83, State Plane AK Zone 1 Projection







Alaska Department of Fish and Game  
Board of Fisheries  
PO Box 115526  
Juneau, AK 99811-5526  
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## ALASKA BOARD OF FISHERIES

### DELEGATION OF AUTHORITY UNDER AS 16.05.270 TO THE COMMISSIONER TO ADOPT REGULATIONS FOR AMPHIBIANS 2015–275–FB

The Board of Fisheries ("board") makes the following findings:

1. Whereas proposals 261 and 262 for the 2014–2015 Board of Fisheries meeting cycle deal with amphibians; and
2. Whereas regulatory proposals for amphibians were not included in the call for proposals or the legal public notice for the 2014–2015 meeting cycle, and have not been included on the call for proposals for any recent meeting cycle; and
3. Whereas the board is precluded from adopting proposals 261 and 262 in regulation during the 2014-2015 meeting cycle because of the lack of the legal public notice required by the Alaska Administrative Procedure Act (AS 44.62); and
4. Whereas the board believes that under the circumstances proposals 261 and 262 deserve consideration; and
5. Whereas the Department of Fish & Game proposed the following regulation changes as a substitute for proposals 261 and 262:

5 AAC 41.005(a) is amended to read:

**5 AAC 41.005. Permit required.** (a) Except as otherwise provided, a person may not transport, possess, export from the state, or release into the waters or the lands of the state, any live fish unless the person holds a fish transport permit issued by the commissioner, and the person is in compliance with all conditions of the permit and the provisions of this chapter.

5 AAC 41.070(a) is amended to read:

**5 AAC 41.070. Prohibitions on importation and release of live fish.** (a) Except as provided in (b) – (d) of this section, no person may import any live fish into the state for the purpose of stocking or rearing in the waters or the lands of the state.



5 AAC 41.070(c) is amended to read:

(c) Ornamental fish not raised for human consumption or sport fishing purposes may be imported into the state, but may not be reared in or released into the waters or the lands of the state. Fish wastes and waste water from ornamental fish may not be released directly into waters of the state.

5 AAC 41.070 is amended by adding a new subsection to read:

(f) Except as otherwise provided in this chapter, a person may not possess, import, breed, transport, release, purchase, or sell within this state a banned invasive species classified under 5 AAC 41.075, unless that person holds a permit from the commissioner.

5 AAC 41 is amended by adding a new section to read:

**5 AAC 41.075. Classification of banned invasive species.** (a) In consultation with the department, the board will classify certain nonnative species as banned invasive species under this section.

(b) When considering proposals to classify a certain nonnative species as a banned invasive species, or removing a species from the list of banned invasive species specified in (c) of this section, the board will consider and determine the potential of the species to

- (1) survive, grow, reproduce, and establish reproductive populations in this state;
- (2) cause a genetic alteration of a species indigenous to this state;
- (3) compete for food, habitat, and resources with a species indigenous to this state;
- (4) degrade or make uninhabitable habitats used by species indigenous to this state;
- (5) transmit a disease to a species indigenous to this state or to humans;
- (6) threaten the health or population of a species indigenous to this state or to

humans;

- (7) cause economic or environmental harm.

(c) The following species are classified as banned invasive species:

**Common Name**

**Scientific Name**

**Amphibians**

American bull frog  
Pacific Chorus Frog  
Red-legged Frog

*Lithobates catesbeianus*  
*Pseudacris regilla* or *Hyla regilla*  
*Rana aurora*

**Crustaceans**

Signal crayfish  
Red swamp crayfish  
Rusty crayfish  
European green crab  
Conrad's or Dark false mussel

*Pacifastacus leniusculus*  
*Procambarus clarkii*  
*Orconectes rusticus*  
*Carcinus maenas*  
*Mytilopsis leucophaeta*



Alaska Department of Fish and Game  
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**Fish**

Asian carp  
Yellow Perch

*Hypophthalmichthys* Genus  
*Perca.fl.avesdens*

**Mollusks**

New Zealand mudsnail  
Dreissenid mussels  
Quagga mussel  
Zebra mussel

*Potamopyrgus antipodarum*  
Dreissenidae Family  
*Dreissenia bugensis*  
*Dreissenia polymorpha*

(d) In this section, "banned invasive species" includes any part of an organism, including reproductive material, at any stage of its life cycle.

5 AAC 41.100(4) is amended to read:

**5 AAC 41.100. Definitions.**

(4) "ornamental fish" **has the meaning given in AS 16.35.210** [MEANS A FISH COMMONLY KNOWN AS "TROPICAL FISH," "AQUARIUM FISH," OR "GOLDFISH," WHICH ARE IMPORTED, CULTURED, OR SOLD IN THE STATE CUSTOMARILY FOR VIEWING IN AQUARIA OR FOR RAISING IN ARTIFICIAL SYSTEMS, AND NOT CUSTOMARILY USED FOR SPORT FISHING OR HUMAN CONSUMPTION PURPOSES];

**NOW THEREFORE:**

A. Pursuant to AS 16.05.270, the board delegates its authority under AS 16.05.251 to the commissioner to consider and, at the commissioner's discretion, adopt regulatory changes on the subjects in proposals 261 and 262 for the 2014-2015 board meeting cycle, including the proposed regulatory changes outlined above, in accordance with the Administrative Procedure Act (AS 44.62).

B. This delegation of authority shall remain in effect unless revoked by the board.

VOTE: 6-0

Date Adopted: March 20, 2015  
Anchorage, AK

Torn K. Luberton, Chairman  
Alaska Board of Fisheries

## Frequently Asked Questions

### Why was this proposed?

A formal request was submitted to ADF&G by Southern Southeast Regional Aquaculture Association, SSRAA to establish cost recovery assessment fisheries in established terminal harvest areas (THA's). After review, the department determined that the request for the establishment of the new assessments in the THA's was not allocative and that the department does have the authority to adopt regulations establishing the new assessment fisheries. The assessment will apply equally to all commercial gear groups harvesting king salmon in the areas specified in the proposed regulations.

### What areas would the proposed regulations affect?

Only Southern Southeast Alaska. There are currently three terminal harvest areas proposed. They are the Anita Bay THA, Neets Bay THA and the Carroll Inlet THA. There are maps of the areas available on the [ADF&G](https://adfg.alaska.gov/index.cfm?adfg=regulations.main) website <https://adfg.alaska.gov/index.cfm?adfg=regulations.main> the Alaska Online Public Notice System <https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=201377> or by contacting the department at [shellene.hutter@alaska.gov](mailto:shellene.hutter@alaska.gov) or 907-465-6124.

### What will the result be for the THA regs if adopted?

The proposed regulations would allow for a common property assessment fishery that will apply a tax on hatchery returning king salmon only in the specified area of the THA. The tax will only apply to king salmon harvested in the terminal harvest areas of Neets Bay, Anita Bay and Carroll Inlet.

### How is the tax assessment determined?

The rate is determined by annually by the SSRAA Board of Directors, the Department of Revenue in consultation with the Department of Commerce, Community, and Economic Development.

## Frequently Asked Questions

### What does adding “lands” to the regulatory language mean?

A fish transport, aquatic farm related, or aquatic resource permit will now be required for any area of the state, not just waterways for the collection, transportation, possession or propagation of any aquatic organism not listed as a banned invasive species. Additionally, any live aquatic organisms or parts of aquatic organisms that were imported may not be released on the lands of the state, where previously only waterways were restricted.

### What does the new language with the list of animals do?

The new regulation formally lists species that are not permitted to be brought into the state of Alaska or allowed in your possession under any circumstances. The species listed are considered invasive and illegal to possess any live animal or parts of the animals listed. The regulation also lists criteria that the Board of Fisheries will use when making their determination of classification of all banned invasive species.