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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Shellene Hutter, Department of Fish and Game

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: March 17, 2023

RE: Filed Permanent Regulations: Board of Fisheries
Board of Fisheries regulations re: Bristol Bay Finfish Board Meeting November 2022 (5 AAC 01 - 99)

Attorney General File:	2022200303
Regulation Filed:	3/17/2023
Effective Date:	4/16/2023
Print:	246, July 2023

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis



THE STATE
of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

P.O. Box 110300
Juneau, Alaska 99811
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March 14, 2023

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0001

Re: *5 AAC 01-99, Board of Fisheries - Bristol Bay Finfish Board Meeting
November 2022*

Our file: 2022200303

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Board of Fisheries against the statutory standards of the Administrative Procedure Act. Based on our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

This regulation project is regarding the Department of Fish and Game Board of Fisheries Bristol Bay Finfish Board Meeting, November 29-December 3, 2022.

The regulations were adopted by the Board of Fisheries after the close of the public comment period. The September 13, 2022 public notice and the February 9, 2023 order certifying changes both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

Digitally signed by
Rebecca C. Polizzotto
Date: 2023.03.14
15:36:30 -08'00'

RCP/ehp

CC w/enclosure: Shellene Hutter, Regulations Contact
Department of Fish and Game

Aaron Peterson, Assistant Attorney General
Department of Law

Steven C. Weaver, Assistant Attorney General
Department of Law

**ORDER CERTIFYING THE CHANGES TO REGULATIONS
OF THE ALASKA BOARD OF FISHERIES**

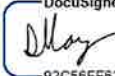
The attached ¹²~~11~~ pages of regulations, changes to 5 AAC for subsistence, sport and commercial fisheries occurring in Bristol Bay are certified to be a correct copy of the regulation changes that the Alaska Board of Fisheries adopted at its public hearing held from November 29th – December 3rd, 2022 in Anchorage, Alaska under the authority of AS 16.05.251 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Alaska Board of Fisheries paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: 2/9/2023
Juneau, Alaska


DocuSigned by:

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Douglas S. Vincent-Lang, Commissioner
Department of Fish and Game

April Simpson for

FILING CERTIFICATION

I, [←]Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on March 17, 2023 at 3:38 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

for 
Nancy Dahlstrom, Lieutenant Governor
State of Alaska

Effective: April 16, 2023

Register: 246, July 2023

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on December 11th, 2022.



Nancy Dahlstrom
.....

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

Title 5. Fish and Game.

Part 1. Commercial and Subsistence Fishing and Private Nonprofit Salmon Hatcheries.

Chapter 01. Subsistence Finfish Fishery.

Article 6. Bristol Bay Area.

The introductory language of 5 AAC 01.320(b) is amended to read:

(b) Outside the boundaries of any district and within the Naknek, Alagnak, and Wood River special harvest areas, salmon may only be taken by set gillnet, except that salmon may also be taken by dip nets in the waters described in 5 AAC 01.310(d) if fishing other than from a vessel, and salmon may also be taken as follows:

...

(In effect before 1982; am 4/14/82, Register 82; am 4/16/83, Register 86; am 4/2/88, Register 105; am/readopt 5/15/93, Register 126; am 4/14/95, Register 134; am 5/14/98, Register 146; am 5/31/98, Register 146; am 6/17/2001, Register 158; am 6/22/2001, Register 158; am 3/30/2007, Register 181; am 8/23/2009, Register 191; am 4/9/2010, Register 194; am 4/16/2016, Register 218; am 5/31/2019, Register 230; am 4 / 16 / 2023, Register 246)

Authority: AS 16.05.251 AS 16.05.258

5 AAC 01.330(d) is repealed:

(d) Repealed 4 / 16 / 2023.

(In effect before 1982; am 4/14/82, Register 82; am 4/2/88, Register 105; readopt 5/15/93, Register 126; am 4/9/2004, Register 170; am 4 / 16 / 2023, Register 246)

Authority: AS 16.05.251 AS 16.05.258

Chapter 06. Bristol Bay Area.

Article 2. Fishing Districts and Sections.

5 AAC 06.200(b)(1) is amended to read:

(1) Kvichak Section: all waters of Kvichak Bay enclosed by a line from 58° 43.73' N. lat., 157° 42.71' W. long., to 58° 38.455' [58° 38.50'] N. lat., 157° 22.331' [157° 22.23'] W. long., to the outer end of Libbyville Dock at 58° 46.76' N. lat., 157° 03.57' W. long., then along the dock to the shore at 58° 46.61' N. lat., 157° 03.25' W. long.;

5 AAC 06.200(b)(2) is amended to read:

(2) Naknek Section: all waters of Kvichak Bay enclosed by a line from 58° 36.77' N. lat., 157° 15.82' W. long., to 58° 38.455' [58° 38.50'] N. lat., 157° 22.331' [157° 22.23'] W. long., to the outer end of Libbyville Dock at 58° 46.76' N. lat., 157° 03.57' W. long., then along the dock to the shore at 58° 46.61' N. lat., 157° 03.25' W. long.

(In effect before 1982; am 4/14/82, Register 82; am 5/11/85, Register 94; am 4/2/88, Register 105; am 6/10/90, Register 114; am 6/19/92, Register 122; am 5/14/98, Register 146; am 6/3/2001, Register 158; am 4/9/2004, Register 170; am 3/30/2007, Register 181; am 5/4/2007, Register 182; am 6/13/2007, Register 182; am 9/12/2008, Register 187; am 4/9/2010, Register 194; am 4/16/2016, Register 218; am 5/31/2019, Register 230; am 4/16/2023,

Register 246)

Authority: AS 16.05.251

Article 3. Salmon Fishery.

5 AAC 06.320(c)(2)(C) is amended to read:

(C) Ugashik District in 5 AAC 06.366(d)(4) [AND (g) OF THIS SECTION].

5 AAC 06.320(g) is repealed:

(g) Repealed 4 / 16 / 2023. (In effect before 1985; am 5/11/85, Register 94; am 4/2/88, Register 105; am 6/10/90, Register 114; am 6/19/92, Register 122; am 4/9/95, Register 134; am 5/24/96, Register 138; am 5/14/98, Register 146; am 6/3/2001, Register 158; am 4/9/2010, Register 194; am 2/23/2014, Register 209; am 5/31/2019, Register 230; am 4/16 / 2023, Register 246)

Authority: AS 16.05.060 AS 16.05.251

5 AAC 06.331(m)(8) is amended to read:

(8) in the Ugashik District, in that portion of the east bank of the Ugashik River from a point at 57° 30.74' N. lat., 157° 24.10' W. long. to 57° 32.27' N. lat., 157° 24.36' W. long., no part of a set gillnet may be more than 800 [600] feet from the 18-foot high tide mark.

The introductory language of 5 AAC 06.331(n) is amended to read:

(n) in the Nushagak District, **and subject to (v) of this section**, a CFEC salmon interim-use or entry permit holder may not set or operate a set gillnet seaward of set gillnets operated by another CFEC salmon interim-use or entry permit holder. In addition, no part of a set gillnet,

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anchor, peg, stake, buoy, or other device used to set the gillnet may be seaward of the following offshore locations:

5 AAC 06.331(n)(2) is amended to read:

(2) from the cannery dock at Clark's Point to **Range Marker at 58° 47.929' N. lat., 158° 33.539' W. long., to 58° 47.572' N. lat., 158° 32.883' W. long., to 58° 47.447' N. lat., 158° 32.510' W. long., to 58° 47.232' N. lat., 158° 31.657' W. long., to First Creek at 58° 47.057' N lat., 158° 30.743' W. long., approximately 600** [FIRST CREEK AT 58° 47.15' N. LAT., 158° 30.57' W. LONG., 500] feet from the mean high tide mark [, OR THE MINUS THREE FOOT LOW TIDE MARK, WHICHEVER LOCATION IS CLOSER TO THE MEAN HIGH TIDE MARK; EXCEPT THAT FROM 58° 50.10' N. LAT., 158° 33.52' W. LONG. TO 58° 49.29' N. LAT., 158° 33.10' W. LONG., 750 FEET FROM THE MEAN HIGH TIDE MARK, OR THE MINUS THREE FOOT LOW TIDE MARK, WHICHEVER LOCATION IS CLOSER TO THE MEAN HIGH TIDE MARK];

5 AAC 06.331(n)(3) is amended to read:

(3) from First Creek at **58° 47.057'** [58° 47.15'] N. lat., **158° 30.743'** [158° 30.57'] W. long., to **58° 46.991' N. lat., 158° 30.559' W. long., to 58° 46.866' N. lat., 158° 29.795' W. long., to** Third Creek, at **58° 46.629'** [58° 46.81'] N. lat., **158° 28.155'** [158° 28.10'] W. long., **approximately 800** [700] feet from the mean high tide mark;

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5 AAC 06.331(n)(4) is amended to read:

(4) from Third Creek at 58° 46.629' [58° 46.81'] N. lat., 158° 28.155' [158° 28.10'] W. long., to 58° 46.469' N. lat., 158° 27.054' W. long., to 58° 45.748' N. lat., 158° 24.570' W. long., to 58° 45.283' N. lat., 158° 23.470' W. long., to 58° 44.711' N. lat., 158° 22.545' W. long., to 58° 43.417' N. lat., 158° 21.171' W. long., to 58° 41.972' N. lat., 158° 20.579' W. long., to 58° 40.503' N. lat., 158° 20.270' W. long., to 58° 40.156' N. lat., 158° 20.444' W. long., to 58° 39.765' N. lat., 158° 20.273' W. long., to a point offshore of Etolin Point at 58° 39.299' [58° 39.37'] N. lat., 158° 19.661' [158° 19.31'] W. long., approximately 1,100 [1,000] feet from the mean high tide mark; [.]

5 AAC 331 is amended by adding a new subsection to read:

(v) The provisions of (n) of the section do not apply after May 31, 2026. (In effect before 1984; am 4/28/84, Register 90; am 5/11/85, Register 94; am 7/14/85, Register 95; am 4/18/86, Register 98; am 4/2/88, Register 105; am 6/10/90, Register 114; am 5/15/91, Register 118; am 6/19/92, Register 122; am 7/12/92, Register 123; am 6/24/93, Register 126; am 6/5/94, Register 130; am 4/9/95, Register 134; am 5/24/96, Register 138; am 6/21/97, Register 142; am 5/14/98, Register 146; am 6/22/2001, Register 158; am 4/9/2004, Register 170; am 6/13/2004, Register 170; am 12/1/2004, Register 172; am 5/26/2006, Register 178; am 3/30/2007, Register 181; am 4/9/2010, Register 194; am 4/4/2013, Register 206; am 5/18/2014, Register 210; am 5/24/2015, Register 214; am 4/16/2016, Register 218; am 6/26/2016, Register 218; am 7/15/2016, Register 219; add'l am 7/15/2016, Register 219; am 5/31/2019, Register 230; am 9/24/2021, Register 239; am 4 /16 / 2023, Register 246)

Authority: AS 16.05.060 AS 16.05.251

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5 AAC 06.360 is amended by adding a new subsection to read:

(i) The commissioner may, by emergency order, open the NRSHA when the Naknek River escapement exceeds the mid-point of the escapement goal range and is projected to exceed the upper end of the escapement goal range; in the event of an emergency opening of the NRSHA

(1) fishing periods may open concurrently with fishing periods in the Naknek Section and the Naknek-Kvichak District, except that drift gillnet fishing periods may close one hour before high tide;

(2) fish harvested in the NRSHA shall be delivered before fishing the Naknek Section or the Naknek-Kvichak District; and

(3) fish harvested in the Naknek Section or the Naknek-Kvichak District shall be delivered before fishing in the NRSHA. (Eff. 4/18/86, Register 98; am 5/21/87, Register 102; am 6/19/92, Register 122; am 4/9/95, Register 134; am 5/14/98, Register 146; am 6/3/2001, Register 158; am 4/9/2004, Register 170; am 4/21/2004, Register 170; am 5/26/2006, Register 178; am 8/14/2006, Register 179; am 3/30/2007, Register 181; am 4/9/2010, Register 194; am 4/4/2013, Register 206; am 5/31/2019, Register 230; am 9/24/2021, Register 239; am 4 / 16 / 2023, Register 246)

Authority: AS 16.05.060 AS 16.05.251

5 AAC 06.365(g) is repealed:

(g) Repealed 4 / 16 / 2023. (Eff. 6/10/90, Register 114; am 3/1/92, Register 122; am 6/19/92, Register 122; am 5/14/98, Register 146; am 6/3/2001, Register 158; am 4 / 16 / 2023, Register 246)

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Authority: AS 16.05.060 AS 16.05.251

5 AAC 06.366(d)(4) is amended to read:

(4) may establish, after 9:00 a.m. July 17, that salmon be taken only from 9:00 a.m. Monday to 9:00 a.m. Sunday

(A) if the minimum escapement goal in the Ugashik District has been achieved, or

(B) during fishing periods established [MAY ESTABLISH] by emergency order [, FISHING PERIODS OTHER THAN THE FISHING PERIODS SPECIFIED IN 5 AAC 06.320(c)(2) DURING WHICH THE REGISTRATION, REREGISTRATION, AND THE 48-HOUR NOTIFICATION PERIOD SPECIFIED IN 5 AAC 06.370 WILL APPLY].

(Eff. 6/10/90, Register 114; am 3/1/92, Register 122; am 6/19/92, Register 122; am 5/14/98, Register 146; am 6/3/2001, Register 158; am 9/12/2008, Register 187; 4 / 16 / 2023 Register 246)

Authority: AS 16.05.060 AS 16.05.251

5 AAC 06.370(k)(1) is amended to read:

(1) Togiak District may not take salmon or be used to take salmon in the Nushagak, Naknek-Kvichak, Egegik, or Ugashik district from 9:00 a.m. June 1 until the midpoint of the escapement goal range is achieved in the Togiak District as specified by commissioner's announcement; if the midpoint of the escapement goal is achieved before

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9:00 a.m. July 17, the provisions set out in (b) of this section are in effect [TO 9:00 A.M. JULY 27];

5 AAC 06.370(k)(2) is amended to read:

(2) Nushagak, Naknek-Kvichak, Egegik, or Ugashik District may not take salmon or be used to take salmon in the Togiak District from 9:00 a.m. June 1 **until the midpoint of the escapement goal range is achieved in the Togiak District as specified by commissioner's announcement; if the midpoint of the escapement goal is achieved before 9:00 a.m. July 17, the provisions set out in (b) of this section are in effect** [TO 9:00 A.M. JULY 27].

(In effect before 1983; am 4/16/83, Register 86; am 5/11/85, Register 94; am 4/18/86, Register 98; am 7/12/86, Register 99; am 4/2/88, Register 105; am 6/10/90, Register 114; am 6/19/92, Register 122; am 4/9/95, Register 134; am 5/24/96, Register 138; em am 5/30/97-9/26/97, Register 142; am 5/14/98, Register 146; am 6/23/99, Register 150; am 6/22/2001, Register 158; am 4/9/2004, Register 170; am 6/21/2009, Register 190; am 4/9/2010, Register 194; am 7/13/2012, Register 203; am 4/4/2013, Register 206; em am 7/26/2015 - 11/22/2015, Register 215; am 4/16/2016, Register 218; am 4 / 16 / 2023, Register 246)

Authority: AS 16.05.251

5 AAC 06.377 is amended by adding new subsections to read:

(c) if the department adopts a reporting requirement, an S03T or S04T CFEC permit holder shall report, on a form provided by the department, the total number of king salmon that were harvested in a commercial fishery and retained for personal use annually as follows:

(1) CFEC permit number;

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- (2) statistical area of harvest;
- (3) the permanent ADF&G vessel license plate number; if applicable
- (4) date of harvest;
- (5) number of king salmon greater than 28 inches in length;
- (6) number of king salmon between 20 and 28 inches in length;

(d) A report described in (c) of this section must be submitted to the department not later than November 30, by means specified by the department. (Eff. 4/2/88, Register 105; am 6/19/92, Register 122; am 12/1/2004, Register 172; am 4/9/2010, Register 194; am 4 / 16 / 2023, Register 246)

Authority: AS 16.05.251

Chapter 27. Herring Fishery.

Article 12. Bristol Bay Area.

5 AAC 27.865(b)(3) is repealed:

- (3) repealed 4 / 16 / 2023;

(In effect before 1982; am 4/14/82, Register 82; am 4/28/84, Register 90; am 4/2/88, Register 105; am 4/7/90, Register 114; am 4/2/92, Register 122; am 4/5/2001, Register 158; am 6/22/2001, Register 158; am 4/9/2004, Register 170; am 4/21/2004, Register 170; am 3/30/2007, Register 181; am 4/16/2016, Register 218; am 5/31/2019, Register 230; am 3/27/2022, Register 241; am 4 / 16 / 2023, Register 246)

Authority: AS 16.05.060 AS 16.05.251

Part 2. Sport Fishing and Personal Use Fishery.

Chapter 67. Bristol Bay Area.

5 AAC 67.022(d)(4)(A) is amended to read:

(A) April 10 through June 7, all sport fishing is closed, except as provided in 5 AAC 67.022(d)(13);

5 AAC 67.022(d) is amended by adding new paragraphs to read:

(12) the bag and possession limit for king salmon is three fish 20 inches or greater in length, of which only one fish may be over 28 inches or greater in length; the annual limit for king salmon 20 inches or greater in length is five fish, only three of which may be 28 inches or greater in length;

(13) a person 16 years of age or older may not sport fish in the Naknek River during the designated youth fishery day, which occurs on June 7; bag, possession, and size limits for rainbow trout are provided in (1)(A) of this subsection; for species other than rainbow trout, provisions under 5 AAC 67.020 apply;

(14) a person 16 years of age or older may not sport fish in the Naknek River from Rapids Camp above the ADF&G regulatory marker at 58° 37.42' N. lat., 156° 31.47' W. long., to 58° 37.37' N. lat., 156° 31.22' W. long., during the designated youth fishery day, which occurs on the second Sunday of July;

(15) a person 16 years of age or older may not sport fish in the Naknek River between the ADFG markers above and below King Salmon Creek, including King Salmon Creek, during the designated youth fishery day, which occurs on the second Sunday of August.

((Publisher – please change period at the end of 5 AAC 67.022(d)(11) to a semicolon)))

5 AAC 67.022(g) is amended by adding a new paragraph to read:

(7) if the department adopts a reporting requirement, a harvest reporting form will be provided by the department to report the total number of king salmon harvested in the Nushagak River drainage for the current calendar year; if required, the report shall be submitted to the department by means specified by the department not later than November 30 of that year containing the following information:

- (A) number of king salmon harvested;
- (B) number of king salmon released;
- (C) number of king salmon harvested greater than 28 inches in length;
- (D) number of king salmon harvested between 20 and 28 inches in length.

((Publisher – please change the period at the end of 5 AAC 67.022(d)(6) to a semicolon)))

5 AAC 67.022 is amended by adding a new subsection to read

(I) In the Togiak River Drainage the following special provisions apply:

- (1) only unbaited, single-hook artificial lures or flies may be used;
- (2) the bag and possession limit for king salmon less than 20 inches in length is 10 fish;
- (3) any king salmon caught that are 20 inches or greater in length must be immediately released; and
- (4) upstream of the confluence of Gechiak Creek and the Togiak River, sport fishing for king salmon is closed year round. (Eff. 3/24/95, Register 133; am 5/24/96, Register

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138; am 4/23/98, Register 146; am 6/14/2001, Register 158; am 4/9/2004, Register 170; am 3/30/2007, Register 181; am 11/28/2009, Register 192; am 2/28/2010, Register 193; am 4/4/2013, Register 206; am 5/8/2013, Register 206; am 5/18/2014, Register 210; am 4/16/2016, Register 218; am 8/27/2016, Register 219; am 5/31/2019, Register 230; am 4/16/2023, Register 246)

Authority: AS 16.05.060 AS 16.05.251

((Note to Publisher: please change period at the end of 5 AAC 67.022(d)(11) to a semicolon)))