

Nancy Dahlstrom  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
WWW.LTGOV.ALASKA.GOV




530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Susan Jakonis, Department of Revenue

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** December 22, 2023

**RE:** Filed Permanent Regulations: Department of Revenue

Department of Revenue regulations re: Shellfish Common Property Assessment (15 AAC 75)

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Attorney General File:	2022200331
Regulation Filed:	12/22/2023
Effective Date:	1/21/2024
Print:	249, April 2024

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  
Main: 907.465.3600  
Fax: 907.465.2520

December 21, 2023

The Honorable Nancy Dahlstrom  
Lieutenant Governor  
State of Alaska  
P.O. Box 110015  
Juneau, AK 99811-0015

Re: *15 AAC 75, DOR - Shellfish Common Property Assessment*  
Our file: 2022200331

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Revenue against the statutory standards of the Administrative Procedure Act. Based upon 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. The regulations were adopted by the Department of Revenue after the close of the public comment period.

The regulations amend provisions under 12 AAC 116 concerning common property shellfish hatcheries, including financial reporting and assessment rate requirements. Additionally, language is added throughout to distinguish shellfish hatcheries from salmon hatcheries.

Both the October 17, 2023 public notice and the December 19, 2023 adoption order state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

No technical corrections were necessary to conform the regulations in accordance with AS 44.62.060.

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: 2023.12.21  
09:25:13 -09'00'

RCP/BWS

CC w/enclosure: Susan Jakonis, Regulations Contact  
Department of Revenue

Ryan Farnsworth, Assistant Attorney General  
Department of Law

Brad Sharp, Assistant Attorney General  
Department of Law

ORDER ADOPTING CHANGES TO REGULATIONS OF THE DEPARTMENT OF  
REVENUE

The attached six pages of regulations, dealing with the Shellfish Common Property Assessment and implementation of Chapter 32 SLA 22, are adopted and certified to be a correct copy of the regulation changes that the Department of Revenue adopts under the authority of AS 43.05.080, 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.

Although no public comments were received, the Department of Revenue paid special attention to the cost to private persons of the regulatory action being taken.

The regulatory changes adopted under this order take effect on the 30<sup>th</sup> day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: \_\_\_\_\_

**Adam Crum**

Digitally signed by Adam Crum  
Date: 2023.12.19 10:00:03 -09'00'

Adam Crum, Revenue Commissioner

*April Simpson for*

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on December 22, 2023, at 10:26 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.



*for* Lieutenant Governor *Nancy Dahlstrom*

Effective: January 21, 2024.

Register: 249, April 2024.

**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:**

**April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.**



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM  
LIEUTENANT GOVERNOR**

15 AAC 116.410 is amended to read:

**15 AAC 116.410. Hatchery reporting requirements.** (a) In a year when a hatchery permit holder's cost recovery will be conducted by a common property fishery authorized under AS 16.10.455 or AS 16.12.090, the hatchery permit holder must provide

(1) audited financial statements for the hatchery permit holder for the three most recent years preceding the current year;

(2) the hatchery permit holder's projected current-year costs;[AND]

(3) for purposes of AS 16.10.455, the number of salmon, by species, that returned to the hatchery in the three most recent full calendar years and the number of salmon, by species, projected to return to the hatchery in the current year; and

(4) for purposes of AS 16.12.090, the pounds of shellfish, by species, harvested in the hatchery's special harvest area in the three most recent full calendar years and the pounds of shellfish, by species, projected to be harvested in the hatchery's special harvest area in the current year.

(b) The information required under (a) of this section must be filed with the department

(1) for purposes of AS 16.10.455, not later than October 1 of the year preceding the year for which the harvest is sought;

(2) for purposes of AS 16.12.090, not later than July 1 of the year preceding the year for which the harvest is sought [NO LATER THAN 30 DAYS FOLLOWING THE DATE THAT THE HATCHERY PERMIT HOLDER'S BOARD, AS REQUIRED UNDER AS 16.10.455(b), NOTIFIES THE DEPARTMENT OF FISH AND GAME WHETHER THE HATCHERY INTENDS TO OPERATE AS PROVIDED UNDER AS 16.10.455(b)]. (Eff.

6/24/2012, Register 202; am 1 / 21 / 2024, Register 249)

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**Authority:** AS 16.10.455 AS 16.12.090 AS 43.05.080

The section heading for 15 AAC 116.415 is changed to read:

**15 AAC 116.415. Common property fishery assessment rate for salmon.**

15 AAC 116.415(a) is amended to read:

(a) A person subject to the common property fishery assessment under AS 16.10.455 shall pay an assessment at a rate determined by the department annually [UNDER (e) OF THIS SECTION,] on the projected value of the salmon taken in a terminal harvest area that is subject to a common property fishery assessment.

15 AAC 116.415(e) is repealed:

(e) Repealed 1 / 21 / 2024.

(Eff. 6/24/2012, Register 202; am 5/23/2013, Register 206; am 6/14/2014, Register 210; am 12/26/2014, Register 212; am 7/22/2015, Register 215; am 10/22/2016, Register 220; am 1 / 21 / 2024, Register 249)

**Authority:** AS 16.10.455 AS 43.05.080

15 AAC 116 is amended by adding a new section to read:

**15 AAC 116.416. Common property fishery assessment rate for shellfish.** (a) A person subject to the common property fishery assessment under AS 16.12.090 shall pay an assessment at a rate determined by the department annually on the projected value of the shellfish taken in a special harvest area that is subject to a common property fishery assessment.

(b) The common property fishery assessment rate will be determined annually by the department using one of the following methods:

(1) as a fraction,

(A) the numerator of which is the projected assessment revenue for the current year; and

(B) the denominator of which is the total pounds of shellfish projected to be harvested in the terminal harvest area in the current year that will be subject to the common property fishery assessment, multiplied by the projected regional price per pound of shellfish for the current year that will be subject to the common property fishery assessment;

(2) as a flat rate on each pound of shellfish, determined by multiplying the fraction calculated under (1) of this subsection by the projected value of shellfish for the current year that will be subject to the common property fishery assessment.

(c) To calculate the projected assessment revenue for purposes of (b)(1)(A) of this section, the department, in consultation under (d) of this section with the hatchery permit holder, will

(1) calculate the total estimated amount of the hatchery permit holder's

(A) annual debt service to the state;

(B) reasonable operating expenses for the year;

(C) reasonable maintenance for the year; and

(D) additional revenue needed to develop or maintain a reserve fund up to 100 percent of the hatchery permit holder's annual operating costs; and

(2) subtract, from the total estimated amount, the estimated amount of income from all sources that the hatchery holder expects to expend to satisfy the estimates under (1)(A) -



(D) of this subsection, other than money estimated to be appropriated under AS 16.12.090(e) to the hatchery permit holder.

(d) The department will consult with the Department of Commerce, Community, and Economic Development for assistance in identifying current-year market conditions and shellfish market trends. The department will consult with the hatchery permit holder to ensure the projected assessment revenue includes all cost components identified under AS 16.12.090(d). The department will consult with representatives of affected commercial fishermen for assistance in determining the projected regional price per pound of shellfish subject to the common property fishery assessment. (Eff. 1 / 21 / 2024, Register 249)

**Authority:** AS 16.12.090 AS 43.05.080

15 AAC 116.420 is amended to read:

**15 AAC 116.420. Liability for common property fishery assessment.** (a) A person **subject to AS 16.43 who participates** [PARTICIPATING UNDER AS 16.43] in a common property fishery **under AS 16.10.455 or AS 16.12.090** shall pay a common property fishery assessment at the rate established by the department under [15 AAC 16.410 - 15 AAC 116.490] **15 AAC 116.415 for the harvest of** [ON] salmon **or 15 AAC 116.416 for the harvest of shellfish, if the harvest occurs** [HARVESTED] in an area and during **a** [THE] time of year designated by the commissioner of fish and game as a common property fishery under AS 16.10.455 **or AS 16.12.090**.

(b) Except as provided under (c) of this section, a buyer who acquires salmon **or shellfish** from a person who is subject to a common property fishery assessment under AS 16.10.455 **or AS 16.12.090** shall collect the assessment at the time of purchase.

(c) A person who transfers salmon **or shellfish** to a buyer who is not a fisheries business licensed under AS 43.75 is liable for the payment of the common property fishery assessment imposed under [15 AAC 116.410 - 15 AAC 116.490] **AS 16.10.455 or AS 16.12.090** if, at the time possession of the salmon **or shellfish** is transferred to the buyer, the common property fishery assessment has not been collected. (Eff. 6/24/2012, Register 202; am 1 / 21 / 2024, Register 249)

**Authority:** AS 16.10.455      **AS 16.12.090**      **AS 43.05.080**

15 AAC 116.425(a)(5) is amended to read:

(5) the total pounds and value of salmon **or shellfish**, by hatchery and species, that the buyer has purchased or acquired; and

15 AAC 116.425(b)(5) is amended to read:

(5) the total pounds and value of salmon **or shellfish**, by hatchery and species, that the person has sold or exported; and

(Eff. 6/24/2012, Register 202; am 1 / 21 / 2024, Register 249)

**Authority:** AS 16.10.455      **AS 16.12.090**      **AS 43.05.080**

15 AAC 116.430(a) is amended to read:

(a) A buyer making a bonus or other additional payment to a person after October 31 for salmon **or shellfish** purchased in a [THE] previous **year** [REPORTING PERIOD] shall file a report of the bonus or additional payment made. The buyer shall file **the** [A] report on a form or in a format prescribed by the department, reporting

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(1) the year in which the salmon **or shellfish** were initially reported; and

(2) the [ADDITIONAL] value **of the bonus or additional payment** [PAID FOR THE SALMON ACQUIRED IN A PREVIOUS YEAR].

(Eff. 6/24/2012, Register 202; am 12/26/2014, Register 212; am 1 / 21 / 2024, Register 249)

**Authority:** AS 16.10.455      **AS 16.12.090**      **AS 43.05.080**