

**From:** Bates, Randall W (DFG)  
**Sent:** Thursday, October 17, 2013 1:45 PM  
**To:** Daigneault, Michael J (DFG); Massie, Tammy M (DFG); Gill, Ian D (DFG)  
**Cc:** Campbell, Cora J (DFG); Brooks, Kevin A (DFG); Ott, Alvin G (DFG); Vincent-Lang, Douglas S (DFG); Lamantia, Vanessa M (LAW)  
**Subject:** AO 266 - Special Area Planning  
**Attachments:** ao266.pdf; Rehfeld - ADFG Reg Report 10-15-2013.pdf

As directed in Administrative Order 266 (attached), I evaluated our existing regulations and the components of the special area plans adopted by reference. In many cases, the regulations and plan components adopted by reference are inconsistent, outdated, and include unnecessary burdens to the affected public.

To address this, I have committed the Division of Habitat to the following:

1. Immediately set aside all current Special Management Area planning work (Dude Creek, Willow Mountain, Susitna Flats, and Bristol Bay).
2. Work to prioritize plan revisions into three priority phases (see the attached memo from Deputy Commissioner Kevin Brooks). Priority will generally be based on known conflicts or challenges with language, date of plan revisions, and/or overreach of authority.
3. Initiate the drafting of regulatory and management plan revisions, developing a single and comprehensive regulation package for each of the prioritized phases.
4. The focus of the revisions will be guided by:
  - a. The statutory purpose for the area designation
  - b. The specific authority and responsibility for the designation, limiting overreach
  - c. Consideration of compliance impacts and the burden on the affected public
  - d. Eliminating the inclusion of other agencies stand-alone authorities
  - e. Writing clear, understandable, and implementable goals and policies
  - f. Facilitating a case-by-case evaluation of activities and their associated impacts, limiting strict prohibitions
5. Prepare the regulatory and plan revisions for public review and comment under AS 44.62. Plan for public hearings under AS 44.62 as necessary.
6. Complete the first phase of regulatory revisions with the consideration of comments, further revisions as necessary, adoption order, legal review, and Lt. Governor filing, with a completion date of September 1, 2014.
7. Initiate the second and third phase of the regulatory and management plan revisions.
8. Once complete with the three phases of regulatory and management plan revisions, prioritize and initiate the writing of new management plans for the other 18 special management areas, utilizing the same focus described above.

Communication on this topic outside the Habitat division must adhere to the following: stay limited to facts, stay within your area of expertise, and do not interpret or speculate. Immediately summarize all department communication on this topic and share with me. Any external communication on this topic must be reviewed and approved by me.

Please prepare any questions you might have for discussion at a teleconference meeting on Tuesday October 22 at 2:00 PM. Also prepare a detailed plan of action to initiate and implement this directive and successfully complete the first phase by the September 1, 2014 deadline. Include all actions necessary to make this a success (suggested public hearings, regulatory comment periods, etc.). I will also plan to be in Anchorage on Monday October 28 to meet on this topic and review the draft plan of action. Please plan accordingly.


Randy

# MEMORANDUM

## STATE OF ALASKA DEPARTMENT OF FISH AND GAME

Office of the Commissioner

TO: Karen Rehfeld, Director  
Office of Management and Budget

FROM: Kevin Brooks,   
Deputy Commissioner

DATE: October 15, 2013

PHONE: 907-465-6138

SUBJECT: Alaska Department of Fish and Game Regulation Review

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The Alaska Administrative Code, Title 5 Fish and Game, is comprised of approximately 1,000 pages of regulations related to fish and game management in Alaska. The vast majority of these regulations are generated by the Boards of Fisheries and Game under authority granted in AS 16.05.251 (Regulations of the Board of Fisheries (BOF)) and AS 16.05.255 (Regulations of the Board of Game (BOG)).

The BOF is on a three-year regulatory cycle during which it reviews fisheries regulations for all regions of the state; and similarly, the BOG is on a two-year regulatory cycle during which it reviews game regulations for all regions of the state. During this process, old regulations are routinely revised or deleted as new regulations are promulgated. The department has shared Administrative Order No. 266 with each board chairman during meetings over the past week, and we have asked staff to review board-generated regulations over the next six months to identify any that fit the criteria of the administrative order.

The department has identified and reviewed the following department-generated regulations.

5 AAC 39.109 - 110	Crewmember Licenses.
5 AAC 39.130	Reports required of fishermen, processors, buyers, exporters, and operators of certain commercial fishing vessels; transporting requirements.
5 AAC 39.132	Annual Statistical Survey of Processor Capacity.
5 AAC 39.135	Requirement for releasing confidential information to third persons.
5 AAC 40.100 - 5 AAC 40.990	Private Non-profit Salmon Hatcheries.
5 AAC 41.200 - 5 AAC 41.400	Aquatic Farming.
5 AAC 92.012	Game Licenses and Tags.

5 AAC 93	Department Programs.
5 AAC 93.510 - 595	License Vendors.
5 AAC 95	Fish and Game Habitat.

Sections highlighted in yellow above are specific regulations on which we plan to do outreach to the regulated public to seek input for revisions. Sections related to licensing will be reviewed as part of the Fish and Game Licensing Modernization Project for which the department received a \$2 million capital appropriation in FY14. Current regulations were promulgated based on a paper process and need to be updated to reflect current technologies. The department has over 1,100 license vendors who have already been surveyed as part of this effort, and we will continue to seek their input throughout the process.

Another area of specific focus will be regulations related to special areas, including 12 state game refuges, 17 critical habitat areas, and three sanctuaries. In many cases the regulations governing these areas are inconsistent and have not been reviewed or updated in some time. They also incorporate solely by reference special area plans that are also inconsistent and often outdated. A thorough review and update of these plans and associated regulations will take time, and the department proposes to update them in three phases to be completed by September 1 of 2014, 2015 and 2016. This would include public comment and review.

Several sections of regulations were already under review prior to the issuance of AO No. 266. Chief among these are regulations governing private non-profit salmon hatcheries found in 5 AAC 40.100 – 990 which will involve input from the regulated entities, many of which operate state-owned hatcheries.

Finally, the Commercial Fisheries Entry Commission (CFEC) has extensive regulations found in 20 AAC 05.010 – 1990, and will report on those separately.

If you have any questions or require additional information, please contact me.

cc: Randy Ruaro, Deputy Chief of Staff  
Office of the Governor

Cora Campbell, Commissioner  
Department of Fish and Game

Division Directors  
Department of Fish and Game