2021 AK Regulation Text 5461

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5 AAC 33.370, .379, .383, 5 AAC 40.350, .840, .850, 5 AAC 41.005, .070, .075, .250, 5 AAC 93.330, .350 Non Seq

Notice

Proposed Rule, February 10, 2021

Agency

Department of Fish and Game

Text

- Title 5. Fish and Game.
- Chapter 33. Southeastern Alaska Area.

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 CHAIRMAN of the regional planning team, or their 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


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) 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 br 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


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 br 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 br 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, 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, 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.
  
  o (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.
  
  o (c) The following species are classified as banned invasive species:

  Common Name Scientific Name

  **Amphibians**

  American bull frog Lithobates catesbeianus
  Pacific chorus frog Pseudacris regilla or Hyla regilla
  Red-legged frog Rana aurora

  Crustaceans
  Signal crayfish Pacifastacus leniusculus
  Red swamp crayfish Procambarus clarkii
  Rusty crayfish Orconectes rusticus
  European green crab Carcinus maenas
  Conrad ’s or dark false mussel Mytilopsis leucophaeta

  Fish
  Asian Carp Hypophthalmichthys Genus
  Yellow perch Perca flavescens
Mollusks

New Zealand mudsnail Potamopyrgus antipodarum

Dreissenid mussels Dreissenidae Family

Quagga mussel Dreissenia bugensis

Zebra mussel Dreissenia polymorpha

(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](e)(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.

5 AAC 93.330(f) is repealed:

- (f) Repealed.

5 AAC 93.330(h) is repealed:

- (h) Repealed.

5 AAC 93.330(i) is repealed:

- (i) Repealed.

5 AAC 93.330(j) is repealed:

- (j) Repealed.

5 AAC 93.330(l) is repealed:

- (l) Repealed. (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.
Authority: AS 16.05.020 AS 16.05.831