



LAWS OF ALASKA

2006

Source

SCS CSHB 218(FIN)

Chapter No.

AN ACT

Relating to cost recovery fisheries for private nonprofit hatchery facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to cost recovery fisheries for private nonprofit hatchery facilities.

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3 * **Section 1.** AS 16.10 is amended by adding a new section to read:

4 **Sec. 16.10.455. Cost recovery fisheries.** (a) A hatchery permit holder may
5 harvest salmon for a facility in

6 (1) a special harvest area through agents, or employees of or persons
7 under contract with the permit holder as provided under a permit from the department
8 or regulations of the Board of Fisheries; or

9 (2) a terminal harvest area through the common property fishery under
10 this section.

11 (b) A hatchery permit holder may, by a majority vote of the membership of
12 the hatchery permit holder's board, elect to harvest surplus salmon produced at a
13 facility in a terminal harvest area established for that facility through the common
14 property fishery. At the request of the hatchery permit holder and if the commissioner
15 of fish and game determines that there are no allocative issues involved, and after

1 reasonable consultation with affected commercial fishermen and the organizations of
2 affected commercial fishermen, the commissioner may adopt regulations governing
3 the harvest of surplus salmon in a terminal harvest area when the hatchery permit
4 holder elects to harvest surplus salmon produced at a facility through a common
5 property fishery. The regulations must specify the terms, conditions, and rules under
6 which the common property fishery in the terminal harvest area shall be conducted,
7 including requirements for hold inspections and reporting of harvests and sales of
8 salmon taken in the terminal harvest area. Following adoption of regulations by the
9 department, each year before March 10, the hatchery permit holder's board, by a
10 majority vote of the board's membership, may determine whether the hatchery will
11 operate under the regulations adopted under this subsection during the current calendar
12 year, and shall notify the department if the hatchery intends to operate under the
13 regulations adopted under this subsection. The Board of Fisheries may adopt
14 regulations under AS 16.05.251 regarding a fisheries management plan governing
15 operations under this subsection in a terminal harvest area, including allocation plans.
16 Participation in the fishery must be open to all interim-use permit and entry permit
17 holders who hold permits to operate a type of gear that may be used in the fishing
18 district in which the terminal harvest area is located if that type of gear is authorized
19 by regulation to be used in the terminal harvest area. An interim-use permit holder or
20 an entry permit holder who takes salmon in a common property fishery in a terminal
21 harvest area may sell the salmon to any fish buyer or processor who is licensed to do
22 business in the state.

23 (c) As a condition of participation in a common property salmon fishery in a
24 terminal harvest area under this section, a fisherman who participates in the fishery is
25 subject to the payment of the assessment levied under (d) of this section. The
26 assessment is levied on the value of salmon that the fisherman takes in the terminal
27 harvest area and sells to a licensed buyer. The buyer of the salmon must be licensed
28 under AS 43.75, and the buyer shall collect the assessment on salmon taken in a
29 terminal harvest area at the time of purchase and remit the assessment to the
30 Department of Revenue in accordance with regulations adopted by the Department of
31 Revenue.

1 (d) The Department of Revenue may, by regulation, annually, by March 1 of
2 each year, set the rate of the assessment levied on salmon taken in a terminal harvest
3 area in consultation with the Department of Commerce, Community, and Economic
4 Development, the hatchery permit holder, and representatives of affected commercial
5 fishermen. The rate of the assessment shall provide sufficient revenue to cover debt
6 service to the state, reasonable operating expenses, reasonable maintenance expenses,
7 and development or maintenance of a reserve fund up to 100 percent of annual
8 operating costs of the hatchery permit holder. In setting the rate of the assessment, the
9 department shall consider the estimated return and harvest of salmon in the terminal
10 harvest area, the projected price to be paid for salmon in the region, the amount of the
11 existing reserve held by the hatchery permit holder, and the amount by which the
12 assessment collected in previous years exceeded or fell short of the amount anticipated
13 to be collected. The total rate of the assessment may not exceed 50 percent of the
14 value of the salmon.

15 (e) The Department of Revenue shall deposit the assessments collected under
16 this section in the general fund. The legislature may appropriate the funds collected
17 under this section to the hatchery permit holder who operates a facility in the terminal
18 harvest area in which the assessment was levied. A hatchery permit holder shall use
19 funds appropriated under this subsection for the purposes set out under
20 AS 16.10.450(a). The legislature may also appropriate funds collected under this
21 section to the Department of Revenue for costs incurred by the department under this
22 section.

23 (f) A person who violates a regulation adopted under (b) of this section is
24 guilty of a violation under AS 16.05.722 or a misdemeanor under AS 16.05.723. A
25 person who violates a regulation adopted by the Department of Revenue under (c) of
26 this section is guilty of a class A misdemeanor.

27 (g) In this section,

28 (1) "facility" means a hatchery or salmon rehabilitation project for
29 which a permit is issued under AS 16.10.400 - 16.10.470;

30 (2) "special harvest area" means an area designated by the
31 commissioner or the Board of Fisheries where salmon returning to a hatchery may be

1 harvested by the hatchery operators, and, in some situations, by the common property
2 fishery;

3 (3) "terminal harvest area" means a harvest area, which may include a
4 hatchery release site, established by the commissioner or the Board of Fisheries where
5 salmon returning to a hatchery may be harvested by the common property fishery;

6 (4) "value" has the meaning given in AS 43.75.290.

7 * **Sec. 2.** AS 43.76.035 is amended to read:

8 **Sec. 43.76.035. Exemption. Except as provided under (b) of this section,**
9 AS 43.76.001 - 43.76.040 do not apply to salmon harvested under a special harvest
10 area entry permit issued under AS 16.43.400.

11 * **Sec. 3.** AS 43.76.035 is amended by adding a new subsection to read:

12 (b) Salmon harvested in a common property fishery conducted in a terminal
13 harvest area under AS 16.10.455 are subject to a salmon enhancement tax levied under
14 AS 43.76.001 - 43.76.040.