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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Kevin Messing, Department of Fish and Game

FROM: Scott Meriwether, Office of the Lieutenant Governor (465.4081) 

DATE: August 30, 2016

RE: Filed Emergency Regulations: Department of Fish and Game
Waterfowl (5 AAC 85.065(a)(4)(A); 5 AAC 85.065(a)(4)(E); 5 AAC 85.065(a)(4)(F))

Attorney General File:	Emergency Regulations
Regulation Filed:	August 30, 2016
Effective Date:	August 31, 2016
Expiration Date:	December 28, 2016 unless made permanent by the adopting agency
Print:	219, October 2016

cc with enclosures: Linda Miller, Department of Law
Dianne Blumer, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

FINDING OF EMERGENCY

The Alaska Department of Fish and Game finds that an emergency exists and that the attached regulations are necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

Per recommendations from the Alaska Department of Fish and Game, and Flyway Councils, and the proposed rule of the U.S. Fish and Wildlife Service, the regulatory framework for Canvasbacks, Light Geese, and Brant are changed for the 2016–2017 season.

1) Canvasbacks in all Game Management Units are changed as follows: daily bag and possession limits are increased from a daily bag limit of 1 bird, 3 in possession, to a daily bag limit of 2 birds, 6 in possession.

The population estimate of Canvasbacks in 2016 was 736,000 birds, which was 26% above the long-term average of the last 50 years. The Adaptive Harvest Management (AHM) harvest strategy for Canvasbacks has provided for a 2-bird daily bag limit when the population exceeds 725,000 birds. The Canvasback harvest in Alaska is <1% of the total Pacific Flyway harvest.

2) Light Geese (Snow and Ross') in all Game Management Units are changed as follows: daily bag and possession limits are increased from a daily bag limit of 4 birds, 12 in possession, to a daily bag limit of 6 birds, 18 in possession.

Breeding colony surveys of Light Geese in the western Arctic have indicated a dramatic population increase in recent years, greatly exceeding population objectives of the Arctic Goose Joint Venture, U.S. Flyway Councils, and the Canadian Wildlife Service. This is particularly evident on the Arctic Coastal Plain of Alaska. Increases to the daily bag limit in portions of the Pacific Flyway were prompted by concerns over a potential over-population of Light Geese that may damage breeding and staging habitat and sympatric species.

3) Brant in all Game Management Units are changed as follows: daily bag and possession limits are increased from a daily bag limit of 2 birds, 6 in possession, to a daily bag limit of 3 birds, 9 in possession.

The 2016 winter survey count of Brant was 140,000 birds, which was slightly higher than the 2015 index. The Brant population has surpassed a threshold index of 135,000 birds, above which a moderate harvest strategy of a 3-bird daily bag limit was prescribed by the Pacific Flyway Council. The sport harvest of Brant in Alaska accounts for a small percentage (6%) of the Pacific Flyway total harvest, but is an important subsistence food source to rural Alaskans and provides economic opportunity to rural communities.

The next regular meeting of the Board of Game is not scheduled until January 2017 and the board is unable to meet requirements for public notice and implementation of these changes prior to the opening of the 2016–2017 migratory bird seasons on September 1. Therefore, this emergency regulation amendment is necessary to provide for increased harvest of Canvasbacks following the provisions of the AHM harvest strategy, of Light Geese as part of a cooperative Flyway effort to prevent overpopulation that may result in environmental and species damage,


and of Brant following the recommended Pacific Flyway Council prescriptions, which benefit hunters and local communities in Alaska.

ADOPTION ORDER

Under the authority of AS 16.05.255, AS 16.05.258, and under a delegation of authority from the Board of Game under AS 16.05.270, the attached 5 pages of regulation changes are therefore adopted as emergency regulations to take effect August 31, 2016 as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

DATE: 8/22/16
Juneau, Alaska



Sam Cotten, Commissioner
Alaska Department of Fish and Game

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on August 30, 2016, at 1142 A .m., I filed the attached regulations according to the provisions of AS 44.62.



Lieutenant Governor

Effective: August 31, 2016
Register: 219, October 2016

Expires December 28, 2016
unless made permanent by
the adopting agency.

Title 5. Fish and Game.

Part 3. Game.

Chapter 85. Hunting Seasons and Bag Limits.

Article 2. Seasons and Bag Limits.

5 AAC 85.065(a)(4)(A) is amended to read:

Units and Bag Limits	Open Season (Subsistence and General Hunts)	Nonresident Open Season
(4)		
Migratory game birds (except by falconry) ¹		
(A) Ducks (except sea ducks) ³		
Units 1 - 4		
7 per day,	Sept. 16 - Dec. 31	Sept. 16 - Dec. 31
21 in possession;	(General hunt only)	
however, no more		
than <u>2</u> [1] per day, <u>6</u> [3]		
in possession, may		
be canvasbacks		

Units 5 - 7, 9, 10, (Unimak Is.
only), and 14 - 16

8 per day, 24 in
possession; however, no more
than 2 [1] per day, 6 [3] in
possession, may be canvasbacks

Sept. 1 - Dec. 16
(General hunt only)

Sept. 1 - Dec. 16

Units 8 and 10 (except Unimak
Is.)

7 per day,
21 in possession;
however, no more
than 2 [1] per day, 6 [3]
in possession, may
be canvasbacks

Oct. 8 - Jan. 22
(General hunt only)

Oct. 8 - Jan. 22

Units 11 - 13 and
17 - 26

10 per day,

Sept. 1 - Dec. 16

Sept. 1 - Dec. 16

30 in possession; (General hunt only)

however, no more

than 2 [1] per day, 6 [3]

in possession, may

be canvasbacks

5 AAC 85.065(a)(4)(E) is amended to read:

(E) Geese, Light (Snow
and Ross')

Units 1 - 4

Sept. 16 - Dec. 31

Sept. 16 - Dec. 31

(General hunt only)

6 [4] per day, 18 [12] in possession

Units 5 - 7, 9, 10

Sept. 1 - Dec. 16

Sept. 1 - Dec. 16

(Unimak Is. only), and

(General hunt only)

11 - 26

6 [4] per day, 18 [12] in possession

Units 8 and 10

Oct. 8 - Jan. 22

Oct. 8 - Jan. 22

(except Unimak Is.)

(General hunt only)

6 [4] per day, 18 [12] in possession

5 AAC 85.065(a)(4)(F) is amended to read:

(F) Brant

Units 1 - 4

Sept. 16 - Dec. 31

Sept. 16 - Dec. 31

(General hunt only)

3 [2] per day, 9 [6] in possession

Units 5 - 7, 9, 10

Sept. 1 - Dec. 16

Sept. 1 - Dec. 16

(Unimak Is. only), and

(General hunt only)

11 - 26

3 [2] per day, 9 [6] in possession

Units 8 and 10

Oct. 8 - Jan. 22

Oct. 8 - Jan. 22

(except Unimak Is.)

(General hunt only)

3 [2] per day, 9 [6] in possession

...

(Eff. 8/20/89, Register 111; am 9/1/89, Register 111; am 8/9/90, Register 115; am 8/12/90, Register 115; am 12/27/90, Register 116; am 6/16/91, Register 118; am 7/1/92, Register 122; am 5/13/93, Register 126; am 7/1/93, Register 126; am 8/25/94, Register 131; am 8/31/94, Register 131; am 9/8/94, Register 131; am 7/8/95, Register 135; am 7/9/95, Register 135; am 8/1/95, Register 135; am 8/4/95, Register 135; am 6/28/96, Register 138; am 8/26/96, Register 139; am 7/18/97, Register 143; am 7/26/97, Register 143; am 7/1/98, Register 146; add'l am 7/1/98, Register 146; am 8/6/98, Register 147; am 7/1/99, Register 150; am 7/7/99, Register 151; am 7/17/99, Register 151; am 9/29/99, Register 151; am 7/1/2000, Register 154; add'l am 7/1/2000, Register 154; am 7/24/2000, Register 155; am 7/6/2001, Register 159; am 10/27/2001, Register 160; am 7/1/2002, Register 162; am 7/1/2005, Register 174; am 8/31/2005, Register 175; am 8/31/2006, Register 179; am 8/31/2007, Register 183; am 8/31/2008, Register 187; am 7/1/2009, Register 190; am 8/31/2009, Register 191; am 9/1/2009, Register 191; am 7/1/2010, Register 194; am 8/31/2011, Register 199; am 7/1/2012, Register 202; am 8/31/2013, Register 207; am/readopt 8/31/2014, Register 211; am 9/2/2014, Register 211; am 7/1/2015, Register 214; 8/31/2015, Register 216; am 8/31/2016, Register 219)

Authority: AS 16.05.060

AS 16.05.255

AS 16.05.258

ALASKA BOARD OF GAME

DELEGATION OF AUTHORITY TO ADOPT WATERFOWL REGULATIONS

The Board of Game ("board") makes the following findings:

1. The board normally holds only two regulatory meetings each year.
2. The board attempts to meet only in March and November thereby minimizing the difficulty in obtaining the attendance of all members and the interested public.
3. Proposed Federal framework regulations for migratory bird hunting are not published until July. Therefore, developments regarding waterfowl resources necessitating regulatory action often occur when the board is not in session.
4. The emergency powers of the Commissioner of Fish and Game set forth in AS 16.05.060 may not be sufficiently comprehensive or expeditious to permit necessary regulatory action before the September 1 opening of migratory bird seasons.
5. If the emergency powers of the commissioner are not sufficient, and the board itself cannot act, the State may be without any authority to adopt necessary regulatory measures required for compliance with Federal regulations.
6. The board has avoided this problem in the past by making standing delegations of authority to the commissioner to adopt emergency regulations. These delegations have existed since the 1960's.

THEREFORE THE BOARD RESOLVES that it hereby makes the following delegation of its rulemaking authority under AS 16.02.255 and AS 16.05.258 to the commissioner to be carried out under AS 16.05.270:

- A. The commissioner may adopt, in accordance with the Administrative Procedure Act (AS 44.62), waterfowl regulations.

- B. To the fullest extent practicable, any regulations adopted shall be consistent with all expressions of current board intent.
- C. To the extent it is possible within the time available to act, the commissioner shall attempt to obtain the views of the members of the board before adopting such regulations under this delegation if the matter involves a major policy decision.
- D. Waterfowl regulations adopted under this delegation may be made permanent in accordance with the Administrative Procedure Act (AS 44.62).
- E. This delegation shall remain in effect until revoked by the board.

Dated: _____

4/27/89

Heinrich Springer
Heinrich Springer, Chairman
Alaska Board of Game

At: Anchorage, Alaska

Vote: 5-0 (Nageak and Jackson absent)