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**DEPARTMENT OF NATURAL RESOURCES**

CHAPTER 123

Statutory Authority: 1976 Code Sections 50-15-20(A), 50-15-60, and 50-15-430(A)

123-151. Regulations for Species or Subspecies of Non-game Wildlife

**Synopsis:**

The South Carolina Department of Natural Resources proposes to amend Regulation 123-151, Regulations for Species or Subspecies of Non-game Wildlife. The following is a section-by-section summary of the proposed changes and additions.

123-151. Regulations for Species or Subspecies of Non-game Wildlife

 A. Alligator Harvest

 4. wording added to also allow labels on packages of alligator meat.

 6. wording added to also allow labels on alligator parts.

 B. Depredation Program

 3.b. wording added for clarification and to allow a label on packages of meat.

 C. Private Lands Program

 1. Changes the season dates to conform to the statute. Allows the tagging of incidentally taken alligators smaller than four feet, but prohibits commercialization.

 2. Rewords section to specify when applications are due for the upcoming season, allows the Department discretion to restrict or deny late applications based on remaining available tags, and adds a requirement to report previous seasons' harvest before a new application will be processed.

 5. Specifies set snares to be a legal means of capture under this program.

 7. Changes wording to allow possession of tags from more than one property and to change the reporting deadline to conform to changes in statute.

 8. Reworded to clarify that the Department may allow the sale or possession of parts by permit.

 D. Alligator Hunting Season

 1. Changes the wording for Game Zone numbering to conform to changes in statute going from six to four Game Zones beginning this year.

 3. Changes the reporting deadline to one month earlier.

 E. Sale of Alligator Meat

 2.b. Adds wording to allow alligator meat from other states to be labeled with any agency charged with food inspection, instead of only the state wildlife agency, when meeting the requirement to officially mark packages of meat.

 F. Sale, Barter or Transfer of Alligator Hides or Other Parts

 1. Rewords section to allow for temporary marking of alligator parts until processing is completed and allows the sale of parts, other than hides or skulls, without individual pieces being marked.

 2. Specifies other parts may be sold if documented with harvester's name, until such time as the item is finished or discarded.

 3. Removes the prohibition against possessing an untagged or unmarked alligator part, other than a skull or a hide.

 G. Sale of Finished Alligator Products

 1. Rewords section for clarity for the sale of legally acquired crocodilian parts.

 2. This section is added to state end user of finished products do not have to maintain labeling requirements.

 H. This new section is added for Alligator Propagation.

 1. This section and subsections are added detailing the permit application process.

 2. This section and subsections are added describing facilities locations, construction, and operation.

 3. This section and subsections are added detailing alligator harvest and processing at an alligator propagation facility to also include tagging and labeling requirements.

 4. This section and subsections are added to specify reporting and record keeping as well as requirements for following permit conditions for all alligator propagation facilities.

A Notice of Drafting was published in the *State Register* on December 26, 2014.

**Instructions:**

Replace the regulation as shown below.

**Text:**

123-151. Regulations for Species or Subspecies of Non-game Wildlife.

A. Alligator Harvest

 1. The size and number of all alligators to be taken will be specified by the Department on permits provided with harvest tags. A permit holder may only take and/or possess alligators identified by the Department and only in the manner specified by the Department.

 2. All who take or attempt to take an alligator must have a copy of the harvest permit along with an unused harvest tag with them while afield.

 3. Once an alligator is killed and before it is transported, a harvest tag must be attached and locked within six inches of the tip of the tail. In the event that an alligator harvest tag is defective and is not usable for the purpose intended, or becomes detached from the alligator hide, the Department must be notified immediately. The Department will be responsible for the replacement of defective, but not lost, tags. The alteration of harvest tags is strictly prohibited.

 4. Alligator meat may be used by the harvester but cannot be bought, sold or bartered except as provided in this regulation. All packages of meat not to be sold must have a tag or label with the name of the harvester and the harvest tag number attached.

 5. Before shipping or transporting outside of the USA, carcasses or hides must have CITES tags attached. Anyone desiring to ship or transport such items from the country must contact select Department offices for CITES validation and tagging.

 6. Any alligator carcass, hide or part that is not tagged, labeled or marked as required in this regulation is declared contraband and must be confiscated.

B. Depredation Program

 1. Depredation permits for alligator removal will be issued to property owners or control agents. There is no fee for participation in this program.

 2. Qualifications and liability of Control Agents:

 a. Control agents must possess the experience and ability to handle alligators.

 b. Control agents must supply all equipment necessary to take alligators.

 c. Control agents assume personal liability for their health, safety and welfare and that of their assistants.

 d. Control agents are not employees of the Department, they are independent contractors.

 e. Applications for selection as control agents will be reviewed by the Department. The number of appointed control agents will be based upon the need as determined by the Department.

 3. Operation of Department designated alligator control agents:

 a. Alligators may be skinned only at designated sites and in accordance with specific instructions provided by the Department.

 b. The meat of alligators may be used by the control agents or his/her immediate family and may also be given to others, but must not be bought, sold or transferred except as provided in this regulation. All packages of meat not to be sold, transferred or bartered must have a label attached that includes the name of the person who harvested the alligator and the harvest tag number.

 c. Each control agent may be assisted by not more than two assistant control agents approved by the Department, provided that no such assistant shall operate or conduct any alligator trapping or transportation activity except under supervision of the control agent.

 d. Alligator harvest tags issued to control agents are the property of the Department and shall remain the property of the Department.

 e. Designation as an alligator control agent is discretionary with the Department and such designation may be revoked at any time.

C. Private Lands Alligator Program

 1. Alligators may be taken from lands that are in the Private Lands Alligator Program. The season for taking alligators under this program is from September 1 until May 31. The Department will establish a quota and issue tags for each specific application. Alligators taken under this program must be at least 4 feet in length. Alligators less than 4 feet taken incidentally must be tagged with a harvest tag, but cannot be disposed of commercially.

 2. Applications for participation in the Private Lands Program are due August 1 of each year for the subsequent September 1 to May 31 season. Applications received by the Department after August 1st of that year may be denied participation based on the number of harvest tags available or at the discretion of the Department. All participants must report all harvested alligators and harvest information to the Department not later than the following July 1st. No renewal application for a property previously enrolled in the Private Lands Alligator Program will be processed until such time as an accurate and complete harvest report is submitted to the Department.

 3. If the application is approved by the Department for participation in the Private Lands Alligator Program and a permit is issued, alligators may be taken only from that area and only by a licensed hunter. In order to participate in the Private Lands Alligator Program, an alligator control agent as defined in Section B must also be a licensed hunter. Participants in the Private Lands Alligator Program must maintain accurate records for inspection by Department personnel and the records must be made available for immediate inspection at any and all reasonable hours at the request of the Department.

 4. All areas identified in the Private Lands Alligator Program and facilities used for processing alligators must be open to Department personnel for inspection to determine compliance with the program and laws and regulations protecting alligators and to allow collection of biological information.

 5. During the designated private lands season, alligators may only be taken by firearms, hand-held snares, set snares, hand-held harpoons, archery equipment, crossbows, snatch hooks and as otherwise permitted by the Department. If devices other than firearms are used, a line must be securely attached to the hook, arrow or head of the device in such a manner to prevent separation from the hook, arrow or head until the carcass is retrieved. The other end of the line must be held by the hunter or be attached to a stationary or floating object capable of maintaining line above water when an alligator is attached. Rimfire firearms and shotguns are prohibited for taking alligators except that these firearms can be used to dispatch an alligator secured by a line. No alligator may be taken by use of baited hooks or by pole hunting. Pole hunting is defined as the act of taking an alligator from a den with a hook or snagging device of any type secured to the end of a pole and includes any device used to induce an alligator to move from a den prior to taking. All alligators taken under this program must be killed prior to transport off of the property named on the permit.

 6. No person may use alligator harvest tags issued for privately-owned habitat on publicly-owned property.

 7. A Department-supplied alligator harvest report form must be updated by the applicant or the person taking alligators on the property within 24 hours of the taking of each alligator. Alligator hunters, while on property designated under the Private Lands Alligator Program, must possess tags for that property. Completed harvest forms must be returned to the Department by July 1st of each year. A participant who does not report is not eligible to participate in the program the following season.

 8. Unless otherwise specifically allowed by Department permit, alligator hides, parts or products may be retained and sold only in accordance with this regulation.

D. Alligator Hunting Season

 1. The Department may issue a prescribed number of Alligator Hunting Season permits for the harvest of alligators. Those applicants randomly selected shall be issued instructions along with harvest tag(s). Alligators may be taken pursuant to permits from public and private areas where the person has legal access for the taking of alligators. Alligators taken under this program must be at least 4 feet in length. The season for hunting alligators under this program is from 12:00 noon on the 2nd Saturday in September until 12:00 noon on the 2nd Saturday in October and is open in Game Zones 3 and 4. These harvest permits cannot be used on property approved under the Private Lands Alligator Program. The Department may close, extend, delay or reopen the season if biological needs warrant.

 2. During the designated season, alligators may only be taken by hand-held snares, hand-held harpoons, archery equipment, crossbows, snatch hooks and as otherwise permitted by the Department. Any device may only be used when a line is securely attached to the hook or head of the device in such a manner as to prevent separation from the hook, arrow or head until the carcass is retrieved. The other end of the line must be held by the hunter or attached to a stationary or floating object capable of maintaining line above water when an alligator is attached. Only a handgun, a bangstick or sharp instrument used to sever the spine may be used for dispatch and only if a restraining line is attached to the alligator. A hand-held snare must be used to hold the alligator boatside or on land before it can be dispatched. Firearms may not be used to take free-swimming or basking alligators. The possession of a rifle or shotgun while taking or attempting to take alligators under this program is prohibited. All alligators taken under this program must be killed prior to transport by boat or vehicle. No alligator may be taken by use of baited hooks or by pole hunting. Pole hunting is defined as the act of taking an alligator from a den with a hook or snagging device of any type secured to the end of a pole and includes any devices used to induce an alligator to move from a den prior to taking.

 3. A Department-supplied alligator harvest report form must be updated by the person taking alligators within twenty-four (24) hours of taking each alligator and prior to transporting the alligator carcass to a processing facility. Completed harvest forms must be returned to the Department by November 1st of each season.

 4. A person who does not report is not eligible to participate in the program or hunt alligators the following season.

 5. Alligator meat may be retained by the harvester but cannot be bartered or sold. Alligator hides may be retained and sold only in accordance with this regulation.

E. Sale of Alligator Meat

 1. The sale or barter of alligator meat taken under the alligator hunting season program is prohibited.
 2. Meat taken from alligators harvested under the authority of depredation tags and the private lands program tags may be sold only under the following conditions:

 a. Each package must be labeled to indicate the state, the number of pounds of meat enclosed, the date of packaging, the name of harvester, the processor, the State Food Inspection Department's inspection number, and the tag number corresponding to the alligator hide from which the meat was taken.

 b. All cartons of alligator meat imported from other states shall bear an official marking from that state's wildlife agency or other agency charged with food inspection.

 c. Persons handling alligator meat for human consumption must comply with the sanitation requirements of all applicable federal, state and local authorities.

 d. Those who harvest alligators must maintain accurate records of all alligator meat sales on standard forms supplied by the Department and such records shall be open to inspection by Department personnel.

 3. No person may bring any alligator meat into this State, or possess alligator meat unless authorized by this regulation.

 4. Alligator meat transported into the State must bear evidence of having been legally taken.
 5. Restaurants, canneries, nonfood meat processors and alligator meat wholesalers shall retain all alligator meat purchased in the original packages until the meat is prepared for consumption or processing. Such businesses and/or individual shall detach the original label with the accompanying data from each package when all meat from that carton has been prepared or processed and retain that label for the period of at least six months from the date of sale indicated on the label.

F. Sale, Barter or Transfer of Alligator Hides and Other Parts

 1. Alligator skulls not discarded must be permanently marked with the alligator harvest tag number under which it was taken. Skulls not yet processed into a finished product may be marked with a temporary label denoting tag number under which it was taken. Possession of any skull without the tag number is prohibited. Skulls that are found may be retained, sold, bartered or transferred but the finder must contact the Department to obtain a tag number to permanently tag or mark the part. Parts other than skulls or hides may be sold, bartered or transferred, but records must be kept indicating to whom the parts were sold, bartered or transferred

 2. Hides or alligators taken with Department issued permits may be sold but must be properly tagged and reported as provided in this regulation. Alligator hides and parts transported into this state for sale or processing must bear evidence of having been legally taken. Parts of hides taken from a legally tagged alligator hide, must be tagged or packaged with a label, receipt, or other document indicating harvester's name, date, and the harvest tag number and this documentation retained until such time as the partial hide is tanned or otherwise processed into other finished goods or discarded.

 3. No person shall accept or possess an untagged alligator hide or unmarked or untagged alligator skull for any purpose.

G. Sale of Finished Alligator Products

 1. Products made from legally acquired crocodilians may be offered for sale in the State in accordance with the following:

 a. Products made from the American alligator must be visibly labeled American alligator.

 b. Products made from Caiman must be visibly labeled Caiman.

 c. Products made from other crocodilians must be visibly labeled Crocodile.

 2. Final end users of these finished products are not required to maintain this labeling requirement.

H. Alligator Propagation

 1. Alligator Propagators Permit Applications.

 a. Only persons who are at least 18 years old at the time of application are eligible for an Alligator Propagators Permit.

 b. All applicants must submit a copy of a deed or leaseholder agreement along with a detailed map of the property on where the alligator propagation facility will be located. Map must show the boundaries of the facility, and the locations of every structure, pond, or other property feature used to hold, house, and or process alligators.

 c. The permit application must state the source and approximate number of alligators to be held at the facility. Applicant must notify the Department of any changes to the source stock and numbers.

Alligator propagation facilities must meet the standards herein in order to procure or maintain an Alligator Propagator's Permit. The Department has 15 business days from receipt of a new alligator propagator permit application to inspect the facility for initial compliance.

 d. The Department will notify the applicant in writing of any inspection deficiencies and the work needed to remedy the listed deficiencies.

 e. Any applicant who does not meet initial facility standards must notify the Department after remedying the listed deficiencies on the inspection report.

 f. The Department has 15 business days from receiving notification of these remedies to re-inspect the facility for compliance.

 2. Alligator Propagation Facilities

 a. The minimum setback separation distance required between an outdoor alligator holding tank, pen, or pond, and real property owned by another person is 1,000 feet. The minimum setback separation distance required between an indoor alligator holding tank or pen is 500 feet. Setbacks from property lines may be waived with written consent of the adjacent affected property owners.

 b. The minimum separation distance between an alligator facility and a public or private drinking water well is 500 feet.

 c. The minimum separation distance required between an alligator holding tank, pen, or pond and waters of the State is 1,320 feet or 1/4 mile. If the waters of the State are designated Outstanding Resource Waters, Critical Habitat Waters of Federally Endangered Species, or Shellfish Harvesting Waters, the minimum separation distance required between an alligator holding tank, pen, or pond, and waters of the State is 2,640 feet or 1/2 mile.

 d. The premises must be secure and have adequate barriers to prevent escape of enclosed alligators, entry onto the premises from alligators outside of the facility, and to deter theft of enclosed alligators.

 e. There must be an adequate supply of fresh water at each permitted facility, including each enclosure, or each holding area on the property.

 f. Except for outside pens or ponds, all holding tanks and pens shall have smooth walls.

 g. All areas where alligators are housed must contain enough water for every animal to completely submerge and enough area for each animal to completely exit the water.

 h. Outdoor pens, tanks, or ponds must be constructed with a fence a minimum of five feet in height utilizing 11 ½ gauge chain-link fence with a minimum of 11 ½ gauge ties secured to posts, rails, or other structural parts to prevent escape.

 i. All enclosures must be constructed to prevent alligators from going under or over the enclosure.

 j. Provisions must be made to protect alligators held outside from freezing cold temperatures with adequate denning space.

 k. Outside holding facilities must provide adequate covering or natural vegetation for shade as well as direct sunlight areas for basking to allow temperature regulation.

 l. Indoor pens and tanks.

 i. Alligator eggs located outside of a nest must be kept in an incubator with air and water temperature ranges between 85 and 91 degrees Fahrenheit.

 ii. Alligators less than 48" in total length must be kept inside in a controlled environment with a minimum temperature of 80 degrees Fahrenheit.

 iii. Alligators less than 48" in total length must be kept in rearing tanks constructed in such a manner to allow complete submersion or exit from the water.

 iv. All indoor facilities must have temperature monitors and a backup power system in order to maintain correct water and air temperatures.

 v. All rearing tanks must be constructed of fiberglass, plastic, metal, or other material approved by the Department to ensure secure and humane confinement. Tanks and pens must allow water to be readily drained to allow water changes or cleaning.

 m. Alligators must be kept segregated from other alligators by the following size classes:

 i. Less than 2 feet.

 ii. 2 to 4 feet.

 iii. 4-6 feet.

 iv. Greater than 6 feet.

 n. Minimum pen, tank, pond, or other holding area space requirements.

 i. One half (0.5) square feet of space for every alligator less than 24 inches in total length.

 ii. One and a half (1.5) square feet of space for every alligator 24 to 48 inches in total length.

 iii. Three (3) square feet of space for every alligator greater than 48 inches in total length.

 iv. For all alligator sizes, the pen, tank, or pond must allow at least the largest animal to orient in any direction without touching the sides of the pen, tank, or pond.

 3. Harvest and processing of alligators at a propagation facility.

 a. Any alligator killed under the authority of an alligator propagation permit or that dies at a permitted alligator propagation facility must be tagged with a Department supplied harvest tag within 24 hours or properly disposed of in accordance with local waste disposal requirements.

 b. An alligator propagation facility may process alligators reared on the facility or purchased from any other legal source provided:

 i. The building or structure where alligators are processed for human consumption meets and maintains all applicable state and federal food handling and storage requirements and are licensed or certified to process alligator meat.

 ii. All meat processed for consumption must be packaged in suitable containers which clearly identifies the package as alligator meat, and marked with the facility permit number, and as required by any other federal or state food labeling laws or regulations.

 iii. Records are maintained on forms provided by SCDNR in regards to the origin of the alligators and the associated harvest tag numbers.

 iv. A tag or label affixed to any package or container of alligators or alligator parts must specify the contents, quantity contained, and appli­cable license and permit numbers.

 c. Tagged, unskinned alligator carcasses may be sold or otherwise disposed of.

 d. All tags issued to an alligator propagation facility remain the property of the Department and may be revoked for violations of these regulations.

 e. Requests for CITES tags must be made to the Department at least 10 business days in advance.

 f. Alligators taken under the authority of the public hunting program cannot be sold or given to an alligator propagation facility.

 g. Alligator carcasses taken under the authority of the Private Lands Alligator Program may be sold or given to a propagation facility for the purpose of processing provided that the animals are tagged as required by the Private Lands Program.

 h. No live alligators taken under any of the State's other alligator harvest programs can be sold or given to an alligator propagation facility except with a separate permit issued by the Department.

 4. Reporting Requirements.

 a. All alligator propagation facilities must submit an annual report on Department issued forms with the following information:

 i. The number of eggs purchased and their origin.

 ii. The number of alligators hatched.

 iii. The number of live alligators purchased by size class and origin.

 iv. The number of live alligators currently in possession.

 v. The number of alligators that died.

 vi. The number of alligators killed.

 vii. The disposition of alligator parts and meat sold during the year.

 viii. Names of persons or companies to whom alligators, alligator meat, or alligator parts were sold or otherwise transacted.

 ix. A completed record for each tag used.

 x. A record of the number of alligator carcasses purchased from others and the complete tag numbers from those alligator carcasses.

 b. Any tags issued and not used and accounted for on harvest reports must be returned with the annual report.

 c. No live alligators may be transported off of the alligator propagator facilities without a permit issued by the Department.

 d. Alligator propagators must follow all permit conditions printed on or accompanying the alligator propagator's permit. This permit must be prominently displayed on site at the alligator propagation facility.

**Fiscal Impact Statement:**

The amendment of Regulations 123-151 will result in allowing individuals to enter into the business of alligator propagation. This will generate additional State revenue through propagation permit sales as well as potentially result in opportunities for local economies to benefit through the cost of construction and maintenance of these facilities, and any potential hiring of employees to work at these operations. In addition, changes to current regulations will relax the current marking requirements related to selling small alligator parts, thus reducing the burden on individuals selling small alligator items. Sales taxes on these items will also directly benefit government.

**Statement of Rationale:**

Regulation 123-151 is amended to reflect statutory changes, to establish a means to construct and operate an alligator propagation facility, to clarify conditions for reporting alligator harvest, and to remove the marking requirements of individual small alligator parts.