



LAWS OF ALASKA

1988

Source
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Chapter No.
145

AN ACT

Relating to the farming of aquatic plants and shellfish; prohibiting the farming of Atlantic salmon; extending the moratorium on finfish farming until July 1, 1990; establishing the Alaska Finfish Farming Task Force; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 13.

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 8, 1988
Actual Effective Date: June 9, 1988

AN ACT

Relating to the farming of aquatic plants and shellfish,
prohibiting the farming of Atlantic salmon; extending
the moratorium on finfish farming until July 1, 1990;
establishing the Alaska Finfish Farming Task Force;
and providing for an effective date.

* Section 1. FINDINGS AND POLICY. (a) The legislature finds that

(1) aquatic farming in the state would

(A) provide a consistent source of quality food;

(B) provide new jobs;

(C) increase state exports;

(D) create new business opportunities; and

(E) increase the stability and diversity of the state's
economy; and

(2) development of aquatic farming in the state would increase
the availability of fresh seafood to Alaskans and would strengthen the
competitiveness of Alaska seafood in the world marketplace by broadening
the diversity of products and providing year-round supplies of premium
quality seafood.

(b) It is the policy of the state

(1) to encourage the establishment and responsible growth of an
aquatic farming industry in the state; and

(2) that allocation of aquatic farming sites be made with full

consideration of established and ongoing activities in an area.

* Sec. 2. AS 16.40 is amended by adding new sections to read:

ARTICLE 2. AQUATIC FARMING.

Sec. 16.40.100. AQUATIC FARM AND HATCHERY PERMITS. (a) A person may not, without a permit from the commissioner, construct or operate

(1) an aquatic farm; or

(2) a hatchery for the purpose of supplying aquatic plants or shellfish to an aquatic farm.

(b) A permit issued under this section authorizes the permittee, subject to the conditions of AS 03.05 and AS 16.40.100 - 16.40.199, to acquire, purchase, offer to purchase, transfer, possess, sell, and offer to sell stock and aquatic farm products that are used or reared at the hatchery or aquatic farm. A person who holds a permit under this section may sell or offer to sell shellfish stock to the department or to an aquatic farm or related hatchery outside of the state.

(c) The commissioner may attach conditions to a permit issued under this section that are necessary to protect natural fish and wildlife resources.

(d) Notwithstanding other provisions of law, the commissioner may not issue a permit under this section for the farming of, or hatchery operations involving, Atlantic salmon.

Sec. 16.40.105. CRITERIA FOR ISSUANCE OF PERMITS. The commissioner shall issue permits under AS 16.40.100 on the basis of the following criteria:

(1) the physical and biological characteristics of the proposed farm or hatchery location must be suitable for the farming of the shellfish or aquatic plant proposed;

(2) the proposed farm or hatchery may not require

significant alterations in traditional fisheries or other existing uses of fish and wildlife resources;

(3) the proposed farm or hatchery may not significantly affect fisheries, wildlife, or their habitats in an adverse manner; and

(4) the proposed farm or hatchery plans and staffing plans must demonstrate technical and operational feasibility.

Sec. 16.40.110. PERMIT APPLICATION, RENEWAL, AND TRANSFER. (a) An applicant for an aquatic farming or hatchery permit required under AS 16.40.100 shall apply on a form prescribed by the commissioner. An application for a permit must include a plan for the development and operation of the aquatic farm or hatchery, which must be approved by the commissioner before the permit is issued.

(b) An application for renewal or transfer of a permit must be accompanied by fees required by the commissioner, a report of the disease history of the farm or hatchery covered by the permit, and evidence that satisfies the commissioner that the applicant has complied with the development plan required under (a) of this section. The commissioner may require a health inspection of the farm or hatchery as a condition of renewal. The department may conduct the inspection or contract with a disease diagnostician to conduct the inspection.

(c) A person to whom a permit is transferred may use the permit only for the purposes for which the permit was authorized to be used by the transferor, and subject to the same conditions and limitations.

Sec. 16.40.120. AQUATIC STOCK ACQUISITION PERMITS. (a) A person may not acquire aquatic plants or shellfish from wild stock in the state for the purpose of supplying stock to an aquatic farm or hatchery required to have a permit under AS 16.40.100 unless the

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person holds an acquisition permit from the commissioner.

(b) An acquisition permit authorizes the permit holder to acquire the species and quantities of wild stock in the state specified in the permit for the purposes of supplying stock to

(1) an aquatic farm or hatchery required to have a permit under AS 16.40.100;

(2) the department.

(c) The commissioner shall specify the expiration date of an acquisition permit and may attach conditions to an acquisition permit, including conditions relating to the time, place, and manner of harvest. Size, gear, place, time, licensing, and other limitations applicable to sport, commercial, or subsistence harvest of aquatic plants and shellfish do not apply to a harvest with a permit issued under this section. The commissioner of fish and game shall issue or deny a permit within 30 days after receiving an application.

(d) The commissioner shall deny or restrict a permit under this section upon finding that the proposed harvest will impair sustained yield of the species or will unreasonably disrupt established uses of the resources by commercial, sport, personal use, or subsistence users. The commissioner shall inform the Board of Fisheries of any action taken on permit applications for species that support commercial fisheries subject to limited entry under AS 16.43 and of any permits denied because of unreasonable disruption of an established use. A denial of the permit by the commissioner must contain the factual basis for the findings.

(e) The Board of Fisheries may adopt regulations for the conservation, maintenance, and management of species for which an acquisition permit is required.

(f) Except as provided in (d) of this section or in a regulation

adopted under (e) of this section, the commissioner shall issue a permit if

(1) wild stock is necessary to meet the initial needs of farm or hatchery stock;

(2) there are technological limitations on the propagation of cultured stock for the species sought;

(3) wild stock sought is not fully utilized by commercial, sport, personal use, or subsistence fisheries; or

(4) wild stock is needed to maintain the gene pool of a hatchery or aquatic farm.

(g) Aquatic plants and shellfish acquired under a permit issued under this section become the property of the permit holder and are no longer a public or common resource.

Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR SHELLFISH FOR STOCK. A person may not import into the state an aquatic plant or shellfish for the purpose of supplying stock to an aquatic farm or hatchery unless authorized by a regulation of the Board of Fisheries.

Sec. 16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND PRODUCTS. (a) A private hatchery required to have a permit under AS 16.40.100 may sell or transfer stock from the hatchery only to an aquatic farm or other hatchery that has a permit issued under AS 16.40.100, except that shellfish stock may also be sold or offered for sale to an aquatic farm or related hatchery outside of the state.

(b) Stock may not be transferred to or from an aquatic farm or hatchery required to have a permit under AS 16.40.100 without prior notice of the transfer to the commissioner. A notice of transfer shall be submitted at least 45 days before the proposed date of transfer.

(c) A notice of transfer must be accompanied by a report of a

health inspection of the stock. The department shall conduct the inspection or contract with a disease diagnostician to conduct the inspection. The cost of inspection shall be borne by the department.

(d) The department may restrict or disapprove a transfer of stock if it finds that the transfer would present a risk of spreading disease.

(e) A person may not sell, transfer, or offer to sell or transfer, or knowingly purchase or receive, an aquatic farm product grown or propagated in the state unless the product was grown or propagated on a farm with a permit issued under AS 16.40.100. The permit must be in effect at the time of the sale, transfer, purchase, receipt, or offer.

Sec. 16.40.150. DISEASE CONTROL AND INSPECTION. (a) The department shall order the quarantine or the destruction and disposal of diseased hatchery stock or of aquatic farm products when necessary to protect wild stock. A holder of a permit issued under AS 16.40.100 shall report to the department an outbreak or incidence of disease among stock or aquatic farm products of the permit holder within 48 hours after discovering the outbreak or incidence.

(b) A holder of a permit issued under AS 16.40.100 shall allow the department to inspect the permit holder's farm or hatchery during operating hours and upon reasonable notice. The cost of inspection shall be borne by the department.

(c) The department shall develop a disease management and control program for aquatic farms and hatcheries.

(d) The department may enter into an agreement with a state or federal agency or a private, state-certified provider to provide services under (b) and (c) of this section, or inspections under AS 16.40.110(b).

Sec. 16.40.160. REGULATIONS. The commissioner may adopt regulations necessary to implement AS 16.40.100 - 16.40.199.

Sec. 16.40.170. PENALTY. A person who violates a provision of AS 16.40.100 - 16.40.199, a regulation adopted under AS 16.40.100 - 16.40.199, or a term or condition of a permit issued under AS 16.40.100 - 16.40.199, is guilty of a class B misdemeanor.

Sec. 16.40.199. DEFINITIONS. In AS 16.40.100 - 16.40.199

(1) "aquatic farm" means a facility that grows, farms, or cultivates aquatic farm products in captivity or under positive control;

(2) "aquatic farm product" means an aquatic plant or shellfish, or part of an aquatic plant or shellfish, that is propagated, farmed, or cultivated in an aquatic farm and sold or offered for sale;

(3) "aquatic plant" means a plant indigenous to state water or that is authorized to be imported into the state under a permit issued by the commissioner;

(4) "commissioner" means the commissioner of fish and game;

(5) "hatchery" means a facility for the artificial propagation of stock, including rearing of juvenile aquatic plants or shellfish;

(6) "positive control" means, for mobile species, enclosed within a natural or artificial escape-proof barrier; for species with limited or no mobility, such as a bivalve or an aquatic plant, "positive control" also includes managed cultivation in unenclosed water;

(7) "shellfish" means a species of crustacean, mollusk, or other invertebrate, in any stage of its life cycle, that is indigenous to state water or that is authorized to be imported into the state under a permit issued by the commissioner;

(8) "stock" means live aquatic plants or shellfish

acquired, collected, possessed, or intended for use by a hatchery or aquatic farm for the purpose of further growth or propagation.

* Sec. 3. AS 03.05.011(a) is amended to read:

(a) To carry out the requirements of this title, the commissioner of environmental conservation may issue orders, regulations, permits, quarantines, and embargoes relating to

(1) examination and inspection of premises containing products, articles, and commodities carrying pests;

(2) establishment of quarantines for eradication of pests;

(3) establishment of standards and labeling requirements pertaining to the sale of meat, fish, and poultry;

(4) tests and analyses which may be made and hearings which may be held to determine whether the commissioner will issue a stop order or quarantine;

(5) cooperation with federal and other state agencies;

(6) regulation of fur farming; for purposes of this paragraph, "fur farming" means the raising of and caring for animals for the purpose of marketing their fur, or animals themselves for breeding stock;

(7) examination and inspection of meat, fish, and poultry advertised for sale or sold to the public;

(8) enforcement of quality assurance plans developed in cooperation with appropriate industry representatives;

(9) establishment of standards and conditions for the operation and siting of aquatic farms and related hatcheries, including

(A) restrictions on the use of chemicals; and

(B) requirements to protect the public from contami-

nated aquatic farm products that pose a risk to health;

(10) monitoring aquatic farms and aquatic farm products to ensure compliance with this chapter and with the requirements of the national shellfish sanitation program manual of operations published by the Food and Drug Administration.

* Sec. 4. AS 03.05.040(a) is amended to read:

(a) On any business day during the usual hours of business the commissioner or an authorized inspector may, for the purpose of inspecting agricultural, [OR] fisheries, or aquatic farm products or aquatic farm sites subject to regulation, enter a storehouse, warehouse, cold storage plant, packing house, slaughterhouse, retail store or other building or place where those products are kept, stored, processed or sold.

* Sec. 5. AS 03.05.100 is amended to read:

Sec. 03.05.100. DEFINITIONS. In this chapter,

(1) "agricultural products" does not include fish or fisheries products;

(2) "aquatic farm" and "aquatic farm product" have the meanings given in AS 16.40.199;

(3) "fish or fisheries products" means any aquatic animal, including amphibians, or aquatic plants or parts of those plants, animals or amphibians that are usable as human food.

* Sec. 6. AS 16.05.050 is amended by adding a new paragraph to read:

(17) to permit and regulate aquatic farming in the state in a manner that ensures the protection of the state's fish and game resources and improves the economy, health, and well-being of the citizens of the state;

* Sec. 7. AS 16.05.251 is amended by adding a new subsection to read:

(f) Except as expressly provided in AS 16.40.120(d) and (e) and 16.40.130, the Board of Fisheries may not adopt regulations or take

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1 action regarding the issuance, denial, or conditioning of a permit
2 under AS 16.40.100 or 16.40.120, the construction or operation of a
3 farm or hatchery required to have a permit under AS 16.40.100, or a
4 harvest with a permit issued under AS 16.40.120.

5 * Sec. 8. AS 16.05.930 is amended by adding a new subsection to read:

6 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-
7 thorized by a permit issued under AS 16.40.100 or 16.40.120, or to a
8 person or vessel employed in an activity authorized by a permit issued
9 under AS 16.40.100 or 16.40.120.

10 * Sec. 9. AS 16.05.940(14) is amended to read:

11 (14) "fish or game farming" means the business of propagat-
12 ing, breeding, raising, or producing fish or game in captivity for the
13 purpose of marketing the fish or game or their products, and "captivi-
14 ty" means having the fish or game under positive control, as in a pen,
15 pond, or an area of land or water that [WNICH] is completely enclosed
16 by a generally escape-proof barrier; in this paragraph, "fish" does
17 not include shellfish, as defined in AS 16.40.199;

18 * Sec. 10. AS 16.10 is amended by adding a new section to read:

19 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
20 apply to the purchase or sale of aquatic farm products from a holder
21 of a permit issued under AS 16.40.100 or stock from a holder of a
22 permit issued under AS 16.40.120.

23 * Sec. 11. AS 16.43.140 is amended by adding a new subsection to read:

24 (d) This chapter does not apply to activities authorized by a
25 permit issued under AS 16.40.100 or 16.40.120.

26 * Sec. 12. AS 16.51.180(5) is amended to read:

27 (5) "seafood" means finfish, shellfish, and fish by-prod-
28 ucts, including but not limited to salmon, halibut, herring, flounder,
29 crab, clam, cod, shrimp, and pollock, but does not include aquatic

1 farm products as defined in AS 16.40.199;

2 * Sec. 13. AS 38.05 is amended by adding a new section to read:

3 Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES. (a)
4 The commissioner may offer to the public for lease a site that has
5 been developed for aquatic farming or related hatchery operations
6 under a permit issued under AS 38.05.856. Before offering the site to
7 the public, the commissioner shall offer the site to the permittee.

8 (b) A site shall be leased under this section for not less than
9 the appraised fair market value of the lease. The value of the lease
10 shall be reappraised every five years.

11 (c) A lease under this section may be assigned, but if the
12 assignee changes the use of the site the lease reverts to the state.

13 (d) Before entering into a lease under this section, the commis-
14 sioner shall require the lessee to post a performance bond or provide
15 other security to cover the costs to the department of restoring the
16 leased site in the event the lessee abandons the site.

17 * Sec. 14. AS 38.05 is amended by adding new sections to read:

18 Sec. 38.05.855. IDENTIFICATION OF SITES FOR AQUATIC FARMS AND
19 HATCHERIES. (a) The commissioner shall identify districts in the
20 state within which sites may be selected for the establishment and
21 operation of aquatic farms and related hatcheries required to have a
22 permit under AS 16.40.100.

23 (b) The commissioner shall schedule at least one 60-day period
24 each year during which a person may submit an application that identi-
25 fies a site in a district for which the person wishes to be issued a
26 permit under AS 38.05.856.

27 (c) Based on applications received under (b) of this section,
28 and after consultation with the commissioner of fish and game and the
29 commissioner of environmental conservation, the commissioner shall

1 make a preliminary written finding under AS 38.05.035(e) that proposes
2 sites in each district for which permits may be issued under AS 38.-
3 05.856.

4 (d) After notice is given under AS 38.05.945 and a hearing is
5 held under AS 38.05.946(b), the commissioner shall issue a final
6 written finding under AS 38.05.035(e) that identifies sites in each
7 district for which permits shall be issued under AS 38.05.856 and that
8 specifies conditions and limitations for the development of each site.

9 Sec. 38.05.856. TIDELAND AND LAND USE PERMITS FOR AQUATIC FARM-
10 INC. (a) The commissioner may issue a tideland or land use permit
11 for the establishment and operation of an aquatic farm and related
12 hatchery operations. A permit under this section is valid for three
13 years after the date of issuance. The permit may not be transferred.

14 (b) Before renewing a permit under this section, the commission-
15 er shall allow interested persons to submit written or oral testimony
16 concerning the renewal to the commissioner within 30 days after the
17 date of the notice. The commissioner may hold a hearing to take
18 testimony.

19 (c) Before issuing or renewing a permit under this section, the
20 commissioner shall consider all relevant testimony submitted under
21 this section or AS 38.05.946(b). The commissioner may deny the appli-
22 cation for issuance or renewal for good cause, but shall provide the
23 applicant with written findings that explain the reason for the
24 denial.

25 (d) Before issuing or renewing a permit under this section, the
26 commissioner shall require the permittee to post a performance bond or
27 provide other security to cover the costs to the department of restor-
28 ing the permitted site in the event the permittee abandons the site.

29 (e) The commissioner shall adopt regulations establishing

1 criteria for the approval or denial of permits under this section and
2 for limiting the number of sites for which permits may be issued in an
3 area in order to protect the environment and natural resources of the
4 area. The regulations must provide for the consideration of upland
5 management policies and whether the proposed use of a site is compati-
6 ble with the traditional and existing uses of the area in which the
7 site is located.

8 * Sec. 15. AS 38.05.945(a) is amended to read:

9 (a) This section establishes the requirements for notice given
10 by the department for the following actions:

11 (1) classification or reclassification of state land under
12 AS 38.05.300 and the closing of land to mineral leasing or entry under
13 AS 38.05.185;

14 (2) zoning of land under applicable law;

15 (3) a decision under AS 38.05.035(e) regarding the sale,
16 lease, or disposal of an interest in state land or resources; (AND)

17 (4) a competitive disposal of an interest in state land or
18 resources after final decision under AS 38.05.035(e);

19 (5) a public hearing under AS 38.05.856(b);

20 (6) a preliminary finding under AS 38.05.035(e) and 38.05.-
21 855(c) concerning sites for aquatic farms and related hatcheries.

22 * Sec. 16. AS 38.05.945 is amended by adding a new subsection to read:

23 (g) Notice at least 30 days before action under (a)(5) or (6)
24 shall be given to appropriate

25 (1) regional fish and game councils established under
26 AS 16.05.260; and

27 (2) coastal resource service areas organized under AS 46.-
28 40.110 - 46.40.210.

29 * Sec. 17. AS 38.05.946 is amended by adding a new subsection to read:

(b) The commissioner shall hold a public hearing in each district identified under AS 38.05.055 within 30 days after giving notice of a preliminary finding under AS 38.05.055(e) and 38.05.055(c) concerning sites for aquatic farms and related hatcheries.

* Sec. 18. Notwithstanding any other provisions of law, a person who is lawfully operating an aquatic farm or related hatchery in the state on the effective date of this Act is entitled to continue lawful operations at the existing site. The person may obtain an initial lease or permit for the person's existing operations under AS 38.05.003 or 38.05.056, enacted by secs. 13 and 14 of this Act, but as a condition of obtaining the lease or permit the person must agree that during the term of the lease or permit the person will not change the use of the site.

* Sec. 19. LAND MANAGEMENT REPORT REQUIRED. The commissioner of natural resources shall submit to the legislature not later than January 30, 1989, a report detailing the department's implementation of AS 38.05.003 and 38.05.056, enacted by secs. 13 and 14 of this Act. The report must include

(1) the number of applications received under AS 38.05.003 and 38.05.056, and the number of leases and permits issued, according to type of aquatic farm product;

(2) the restrictions attached to permits and leases;

(3) a discussion of the system the department implements for issuing leases and tideland and land use permits;

(4) the level of public involvement in the issuance process; and

(5) a discussion of how the program is working, and the department's plans for modifications of the program.

* Sec. 20. ALASKA FINFISH FARMING TASK FORCE. (a) The legislature finds that the farming of finfish raises a series of socio-economic, biological, and environmental issues requiring an in-depth examination.

(b) The Alaska Finfish Farming Task Force is established to study the issue and make a report of findings for administrative and legislative consideration. The governor shall appoint a five-member task force composed of state residents who are not state employees and who represent a broad spectrum of expertise, including one representative of commercial salmon fishermen, one aquatic farming advocate, one private economist, one fisheries biologist, and one public member with no involvement in the seafood or aquatic farming industry.

(c) The task force shall submit an interim report to the legislature not later than January 30, 1989, and a final report to the legislature not later than January 30, 1990. The reports must address finfish farming in the state in freshwater, in marine environments, and in tanks or other enclosed structures that contain marine water and that are located on land, and shall address related hatchery operations. The reports may address other issues the task force considers appropriate. The reports must examine

(1) whether the farming of finfish can be conducted in a manner that protects the health of the state's fishery resources;

(2) criteria for the siting of finfish farms to minimize land use conflicts and to protect the environment;

(3) net economic costs and benefits of finfish farming in the state to state residents, including jobs created or lost for state residents, tax revenue (assuming an appropriate tax rate), cost of state regulation and monitoring, and effects on markets for salmon caught by the state's commercial fishing fleets;

(4) the cost of providing adequate regulation of finfish farming to protect wild stocks, the environment, public health, and existing beneficial uses of the state's coastal water and land, and the role of the private sector in providing pathological and other services;

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1 (5) identification and analysis of appropriate sources of supply
2 of stock for finfish farms, including but not limited to private nonprofit
3 hatcheries, private for-profit hatcheries, and wild stock, and their likely
4 effect on existing state policy; and

5 (6) strategies for improving the marketability of Alaska salmon,
6 particularly those high-value species competing with farmed salmon for
7 domestic and export sales.

8 * Sec. 21. Section 4, ch. 70, SLA 1987, is amended to read:

9 Sec. 4. Section 1 of this Act is repealed July 1, 1990 (1988).

10 * Sec. 22. This Act takes effect immediately under AS 01.10.070(c).

AQUATIC FARM PROGRAM

Article 4. Aquatic Farming

Section	Section
200. Applicability of regulations	270. Annual report
210. Permit required	280. Permit application, renewal, and transfer
220. Aquatic farm operation permit application	290. Aquatic stock acquisition permit
230. Additional information	300. Limitations on sale, transfers of stock, and products
240. Review and determination	310. Disease control and inspection
250. Permit conditions	400. Definitions
260. Inspection of a farm	

5 AAC 41.200. APPLICABILITY OF REGULATIONS. The provisions of 5 AAC 41.200 — 5 AAC 41.400 govern the permit application process for aquatic farm operation permits, and establish guidelines and procedures regarding the operation of permitted aquatic farms. (Eff. 4/10/88, Register 106; am 8/12/89, Register 111)

Authority: AS 16.06.060 AS 16.40.100
 AS 16.06.092 AS 16.40.160
 AS 16.06.340(b)

5 AAC 41.210. PERMIT REQUIRED. An aquatic farm operation permit, issued by the commissioner, is required for the operation of an aquatic farm. (Eff. 4/10/88, Register 106; am 8/12/89, Register 111)

Authority: AS 16.05.050 AS 16.40.100
 AS 16.05.092 AS 16.40.160
 AS 16.05.340(b)

5 AAC 41.220. AQUATIC FARM OPERATION PERMIT APPLICATION. An applicant must submit an aquatic farm operation permit application and coastal project questionnaire to the nearest office of the office of management and budget, division of governmental coordination for purposes of complying with the project consistency review of the Alaska Coastal Management Program as identified in 6 AAC 50.010 — 6 AAC 50.190. An application for an aquatic farm operation that requires the use of state tideland, shoreland, or upland managed by the Department of Natural Resources must be submitted during a 60-day opening under AS 38.05.855 and 11 AAC 63.020 for that district. (Eff. 4/10/88, Register 106; am 8/12/89, Register 111)

Authority: AS 16.05.050 AS 16.40.100
 AS 16.05.092 AS 16.40.160
 AS 16.05.340(b)

5 AAC 41.230. ADDITIONAL INFORMATION. If, after an application has been distributed to the department under 6 AAC 50, the department determines that information in the application is insufficient for an adequate evaluation of the proposed aquatic farm, the department will request additional information from the applicant. (Eff. 4/10/88, Register 106; am 8/12/89, Register 111)

Authority: AS 16.05.050 AS 16.40.100
 AS 16.05.092 AS 16.40.160
 AS 16.05.340(b)

5 AAC 41.240. REVIEW AND DETERMINATION. (a) The commissioner will review the recommendations resulting from the department's review of an application before rendering a decision on an application.

(b) The commissioner will render a decision on the application within five days after a determination on project consistency with the Alaska Coastal Management Program has been issued by the office of management and budget under 6 AAC 50. The commissioner's decision will be based on the criteria for issuance of permits in AS 16.40.105.

(c) An application for an aquatic farm operation that has been denied by the commissioner will, in the commissioner's discretion, be

reconsidered if the applicant provides new or additional information that might have altered the original decision. (Eff. 4/10/88, Register 106; am 8/12/89, Register 111)

Authority: AS 16.06.060 AS 16.40.106
AS 16.06.092 AS 16.40.160
AS 16.06.340(b)

5 AAC 41.250. PERMIT CONDITIONS. (a) The commissioner will include conditions to the permit that are necessary to protect natural fish and wildlife resources and their habitat. A permit will be issued for a period of three years.

(b) If the commissioner finds that the operation of an aquatic farm is adversely affecting fisheries, wildlife, or habitat, and cannot be mitigated, the permit will be revoked. (Eff. 4/10/88, Register 106; am 8/12/89, Register 111)

Authority: AS 16.06.060 AS 16.40.100
AS 16.06.092 AS 16.40.160
AS 16.06.340(b)

5 AAC 260. INSPECTION OF A FARM. A permit holder shall allow inspection of the aquatic farm by department inspectors at any time the farm is operating. (Eff. 4/10/88, Register 106; am 8/12/89, Register 111)

Authority: AS 16.06.060 AS 16.40.100
AS 16.06.092 AS 16.40.160
AS 16.06.340(b)

5 AAC 41.270. ANNUAL REPORT. A person who holds a permit for an aquatic farm shall submit an annual report, no later than December 15, to the department. The annual report form will be distributed to permit holders by the department. (Eff. 4/10/88, Register 106; 8/12/89, Register 111)

Authority: AS 16.06.060 AS 16.40.100
AS 16.06.092 AS 16.40.160
AS 16.06.340(b)

5 AAC 41.280. PERMIT APPLICATION, RENEWAL, AND TRANSFER. (a) An applicant for an aquatic farm operation permit shall apply on an aquatic farm application form in the manner provided for in 5 AAC 41.220.

(b) Renewal of an aquatic farm operation permit issued by the commissioner shall be accomplished in accordance with AS 16.40.110.

(c) Transfer of an aquatic farm operation permit cannot occur unless the proposed permittee has an aquatic farm lease under De-

partment of Natural Resources regulation 11 AAC 63.100, AS 38.05.053, and AS 38.05.856.

(d) In order to transfer an aquatic farm operation permit, the permittee must submit a letter of transfer to the commissioner. An aquatic farm permit application, prepared by the proposed permittee, must be submitted with the letter of transfer.

(e) The commissioner's decision on transfer of a permit will be based on the criteria for issuance of permits in AS 16.40.105. (Eff. 8/12/89, Register 111)

Authority: AS 16.05.060	AS 16.40.106
AS 16.05.092	AS 16.40.110
AS 16.05.340(b)	AS 16.40.160
AS 16.40.100	

5 AAC 41.290. AQUATIC STOCK ACQUISITION PERMIT.

(a) A permittee operating under the terms of an aquatic farm operation permit authorized by AS 16.40.100, or a person intending to collect and supply wild stock to such an aquatic farm, must obtain an aquatic stock acquisition permit from the commissioner before obtaining aquatic plants and shellfish from wild stock.

(b) When approved by the commissioner, a shellfish transport permit application form or an aquatic plant transport permit application form constitutes an aquatic stock acquisition permit.

(c) The department will, in its discretion, require the collection of samples for disease testing purposes at the time of aquatic stock acquisition. Sampling requirements will be identified on the permit at the time of issuance.

(d) The commissioner will issue a permit with appropriate conditions, or will deny the permit, in accordance with AS 16.40.120. (Eff. 8/12/89, Register 111)

Authority: AS 16.05.060	AS 16.40.100
AS 16.05.092	AS 16.40.120
AS 16.05.340(b)	AS 16.40.160

5 AAC 41.300. LIMITATIONS ON SALE, TRANSFER OF STOCK, AND PRODUCTS. (a) No transfer of stock to or from an aquatic farm may occur without prior notice to the commissioner. Notice of transfer must be submitted, on a form prescribed by the commissioner, at least 45 days before the proposed date of transfer.

(b) Before the submittal of a notice of transfer, a permittee must notify the department in writing to arrange for a health inspection of the stock. The department will either (1) conduct the inspection and provide a written health inspection report, which is called a disease history report, to the permittee within 60 days after receipt of the notification, or (2) notify the permittee that the current disease his-

tory report of the stock is acceptable, and that no further inspection is required at the time.

(c) A request for a health inspection must be submitted to:

Alaska Department of Fish and Game
FRED Division
Attn: Pathology Laboratory
Box 3-2000
Juneau, Alaska 99802

(d) A shellfish transport permit application form or an aquatic plant transport permit application form constitutes a notice of transfer when it is submitted to the commissioner. When the form is approved by the commissioner, a transfer is authorized.

(e) A transfer of stock will be restricted or disapproved by the department if necessary in order to eliminate the risk of disease transmission.

(f) This section does not apply to the acquisition of wild stock authorized under 5 AAC 41.290 and AS 16.40.120. (Eff. 8/12/89, Register 111)

Authority: AS 16.05.060	AS 16.40.100
AS 16.05.092	AS 16.40.140
AS 16.05.340(b)	AS 16.40.160

5 AAC 41.310. DISEASE CONTROL AND INSPECTION. The department will continue to develop and implement a statewide fish health program in accordance with AS 16.40.150 and 5 AAC 41.001 — 5 AAC 41.400.

(b) An aquatic farm operation permit holder shall submit a verbal incident report within 48 hours when a significant loss occurs that is attributable to disease. An incident report shall be initiated by phoning the department pathology laboratory in Anchorage or Juneau.

(c) A written report related to each incident shall be submitted within 15 days after discovery of the incident. A written report shall include, at a minimum,

- (1) a description of the nature of the incident;
- (2) the cause of the incident;
- (3) the time of the incident;
- (4) the effect on the stocks and aquatic farm products;
- (5) corrective action taken and proposed measures to eradicate future problems; and
- (6) an assessment of the general impact on the program.

(d) The written report required by (c) of this section shall be submitted to:

Alaska Department of Fish and Game
 FRED Division
 Attn: Pathology Laboratory
 Box 3-2000
 Juneau, Alaska 99802

(e) Diseased stocks and aquatic farm products shall be managed in the manner prescribed by the department in accordance with AS 16.40.150 and 5 AAC 41.001 — 5 AAC 41.400.

(f) In this section "significant" means equal to or greater than 0.5 percent a day. (Eff. 8/12/89, Register 111)

Authority: AS 16.06.050 AS 16.40.150
 AS 16.06.092 AS 16.40.160
 AS 16.40.100

5 AAC 41.400. DEFINITIONS. In addition to the definitions set out in AS 16.40.199, in 5 AAC 41.200—5 AAC 41.400

(1) "commissioner" means the commissioner of the Department of Fish and Game or the commissioner's designee;

(2) "department" means the Alaska Department of Fish and Game. (Eff. 4/10/88, Register 106; am 8/12/89, Register 111)

Authority: AS 16.06.020 AS 16.06.340(b)
 AS 16.06.092 AS 16.40.199
 AS 16.06.251