

ORDER ADOPTING CHANGES TO REGULATIONS OF
THE ALASKA DEPARTMENT OF FISH AND GAME

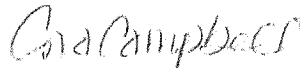
The attached 7 pages of regulations, regarding aquatic farming are hereby adopted and certified to be a correct copy of the regulation changes that the Department of Fish and Game adopts under the authority of AS 16.05.020, AS 16.05.050, AS 16.40.160, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments the Department of Fish and Game paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

DATE: November 30, 2011
Juneau, Alaska



Cora Campbell, Commissioner
Alaska Department of Fish and Game

FILING CERTIFICATION

I, Mead Treadwell, Lieutenant Governor for the State of Alaska, certify that on December 27, 2011 at 2:10 P.m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.



Mead Treadwell, Lieutenant Governor

Effective: _____.

Register: _____.

Title 5. Fish and Game.

Chapter 41. Transportation, Possession, and

Release of Live Fish; Aquatic Farming.

Article 4. Aquatic Farming.

5 AAC 41.240(a)(5)(B) is repealed:

(B) repealed 1 / 26 /2012;

5 AAC 41.240(a)(5)(C) is repealed:

(C) repealed 1 / 26 /2012;

(Eff. 4/10/88, Register 106; am 8/12/89, Register 111; am 6/17/2001, Register 158; am 1/20/2002, Register 161; am 5/19/2005, Register 174; am 11/25/2005, Register 176; am 1/29/2010, Register 193; am 1 / 26 /2012, Register 201)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.110
AS 16.05.092 AS 16.40.105 AS 16.40.160
AS 16.05.340

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5 AAC 41.250(a)(4) is repealed:

(4) repealed 1 / 26 /2012;

(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)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.160

AS 16.05.092

5 AAC 41.257(b)(3) is amended to read:

(3) a transport permit from a hatchery or nursery showing the transport of spat
[SIX MILLIMETERS OR GREATER IN LENGTH] to the specific aquatic farm site;

5 AAC 41.257(b)(4) is repealed:

(4) repealed 1 / 26 /2012;

5 AAC 41.257(b)(5) is repealed:

(5) repealed 1 / 26 /2012.

5 AAC 41.257(g) is repealed to read:

(g) Repealed 1 / 26 /2012. (Eff. 11/25/2005, Register 176; am 1/29/2010, Register 193; am 1 / 26 /2012, Register 201)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.160

AS 16.05.092

5 AAC 41 is amended by adding a new section to read:

5 AAC 41.258. Determination of geoduck status. After at least five years from the date of first planting of spat on an aquatic farm site, an aquatic farm operation permit holder may submit a request to the department for an amendment to the operation permit specified under (5) AAC 41.255 regarding the status of geoducks on the aquatic farm site. The remaining geoducks on an aquatic farm site will be deemed aquatic farm product if the commissioner determines that

(1) an adequate number of spat have been planted based on the permit holder's previous annual reports;

(2) the permit holder has made a reasonable effort to harvest wild stock geoducks contained on the aquatic farm site based on the permit holder's fish tickets; the provisions of this paragraph do not apply to an aquatic farm site that was subjected to a common property fishery or where the department has survey or other data indicating that an insignificant population of wild stock geoducks, as determined under defined in 5 AAC 41.235(a), exists on the site;

(3) the permit holder has engaged in activities to improve the productivity of the geoducks according to the operation and development plan;

(4) identifying wild stock from aquatic farm product is no longer reasonably practicable.

(b) The provisions of this section do not apply to a person who holds a permit for an aquatic farm site that does not contain wild stock geoducks.

(c) A determination under this section does not relieve the aquatic farm operation permit holder from complying with the restoration requirements under AS 16.40.100(e) and 5 AAC 41.257 for wild stock geoducks harvested ^(before) prior to the date of a determination under (a) of this section. (Eff. 1 / 26 /2012, Register 201)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.160
AS 16.05.092

5 AAC 41.270(a)(1) is amended to read:

(1) an estimate of the number of pounds of wild stock the aquatic farm permit holder intends to **land** [SELL];

(The lead-in language of)
5 AAC 41.270(c) is amended to read:

aquatic
^

(c) An aquatic farm permit holder who harvests wild stock from the permit holder's farm site must complete an ADF&G fish ticket at the time of **landing** [HARVEST]. At the time of **landing** [HARVEST], the ADF&G fish ticket must include the

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5 AAC 41.270(e) is amended to read:

(e) The department will distribute an annual report form to aquatic farm and hatchery operation permit holders during each calendar year for completion and return to the department no later than January ^{No Bold} 31 **[15]** of the following year. The report must detail the activities of the aquatic farm or hatchery for the previous year, including any reports required as a condition of the aquatic farm or hatchery operation permit. The department will mail the annual report form to the most recent address of the permit holder on file. A permit holder is responsible for keeping the department informed of the permit holder's current address. Failure to receive an annual report form does not relieve a permit holder of the annual report requirement of this section.

(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 11/25/2005, Register 176; am 1/29/2010, Register 193; am 1 / 26 /2012, Register 201)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.160
AS 16.05.092 AS 16.40.155

5 AAC 41 is amended by adding a new section to read:

5 AAC 41.277. Marking requirement for aquatic farm or hatchery site. An aquatic farm or hatchery site must be marked as follows:

(1) for ^(a) suspended culture operations, an identification surface buoy or sign with the name, physical address, and telephone number of the principal operator with legible numbers and letters that are at least one and one-half inches high and one-quarter inch wide in a color that contrasts with the background ^(must be) and that is placed on one corner of the suspended culture operations;

(2) for ^(a) intertidal culture operations,

(A) on-bottom delineation must be visibly marked with a weighted marker or stake that is adequately secured and placed on all corners of the site parcel; or

(B) if the site is not fully operational, placed on all corners of the operational area within the coordinates of the site parcel defined in the operation permit;

(3) for ^(a) subtidal culture operations,

^(A) on-bottom delineation must be visibly marked with a weighted marker or stake ^{that is IP(i)} anchored securely and placed on all corners of the site parcel; or

⁽ⁱⁱ⁾ (B) if the site is not fully operational, placed on all corners of the operational area within the coordinates of the site parcel defined in the operation permit;

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→ | (~~B~~)(C)^g during harvest activity, surface buoys must be placed on the corners of the site. (Eff. 1 / 26 /2012, Register 201)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.160

AS 16.05.092