



# ALASKA DEPARTMENT OF FISH AND GAME

Commercial Fisheries Management  
and Development Division



## Mariculture Program Summary

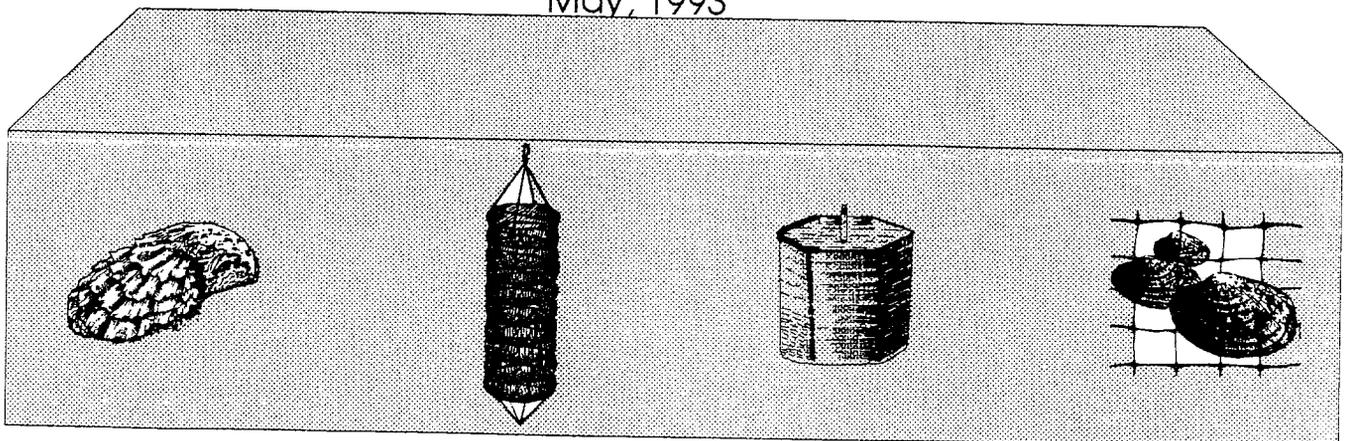
Prepared by:  
James O. Cochran  
Mariculture Coordinator

for

The Planning/Permitting/Resource Development  
Action Team

P.O. BOX 25526  
JUNEAU, ALASKA 99802

May, 1993





**Permitted Aquatic Farms as of 3-31-93**

James D. Cochran  
 Mariculture Coordinator  
 Commercial Fisheries Management and  
 Development Division  
 Alaska Department of Fish and Game

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

WALTER J. HICKEL, GOVERNOR

May, 1992

Dear Prospective Aquatic Farmer:

This package is intended to introduce the State of Alaska's program for Aquatic Farming. Recent events in the program are included for your information.

A list of attachments is provided. If you are missing one or more, copies may be obtained from this office.

This package should be informative and useful. If you have additional questions, or suggestions for improving the package, please give me a call or send me a note.

### 1. BACKGROUND

The 1988 legislature passed Senate Bill 514, providing for certain aquatic farming activities. The Bill was later codified as chapter 145, SLA 1988. The Department of Natural Resources (DNR) was named lead agency because the law provides the opportunity for aquatic farmers to obtain a permit or lease to use State tide or submerged lands. The Department of Fish and Game (ADF&G) and the Department of Environmental Conservation (DEC) also have responsibilities under this law.

State agencies completed writing the regulations required by law to be in place before the program could begin during the summer of 1989.

The program allows new aquatic farms to be developed if they meet certain criteria. Aquatic farmers who demonstrated that they were lawfully operating on the date the law was signed were allowed to continue normal operations. They applied for permits under the new law, though.

### 2. CURRENT SITUATION

#### DNR District openings:

The legislation required that DNR create aquatic farm districts and conduct a 60 day application opening in each district at least once each year. The first opening was for all districts in Southeastern. A combined district opening, for all districts north of Yakutat, ended in June, 1990. The first statewide opening was held in 1991. The statewide schedule seems to work best for all involved so we anticipate openings during March through April annually for the foreseeable future. Opening dates are advertised in major

newspapers. You may also place your name on a mailing list to receive application information by contacting DNR or ADF&G. Aquatic farm districts are shown on the attached map.

Due to the Exxon Valdez Oil Spill, certain tide and submerged lands have been determined to be unavailable or unsuitable for aquatic farming. Also, due to conflicts with fish and wildlife resources and/or their user groups, certain areas are excluded from aquatic farming. Applications will not be accepted for areas identified as "Unacceptable". Due to the high risk and/or conflicts with other uses or resources, the State also discourages applicants from submitting applications in areas designated as "Sensitive".

Detailed information regarding these areas is contained in the Aquatic Farm Application Packet available from DNR. **An example of the current application form is included in this packet.** Contact ADF&G or DNR if you have specific questions.

### **3.PERMITS REQUIRED**

#### For Aquatic Farm Site Suitability Investigation:

Three permits are routinely required to investigate the suitability of a site for aquatic farming:

- 1) DNR Aquatic Farm Site Suitability Permit
- 2) COE Permit
- 3) ADF&G Shellfish or Aquatic Plant Transport Permit

If the area you wish to investigate is in a Critical Habitat Area, ADF&G also must issue a Special Area Permit.

Copies of applications for these permits are available from the respective agencies. A Coastal Project Questionnaire and Certification Statement must be completed. The latter also acts as a guide to other permits that may be necessary for a specific project. The completed packet of State permit applications, along with copies of all Federal applications must be submitted to the nearest office of the Division of Governmental Coordination (DGC). Please note that though the normal review schedule is 30 days, pathology sampling of animals or plants proposed for transport may require additional time. Contact ADF&G for details.

Site suitability permits are limited to a maximum of 10,000 organisms. The project must be completed in one year or less. The site size is limited to one acre or less. The organisms may not be used for commercial purposes. No preference rights to the site are established under this permit. These permits are not subject to the 60-day opening restrictions.

For an Aquatic Farm:

A diagram of the permit process is attached for reference. It is on two pages. The first page charts the process necessary to acquire aquatic farm permits. Page two proceeds through the process necessary to sell shellfish from a permitted aquatic farm.

The Application for Aquatic Farm Permits is designed to obtain the routine authorizations required by DNR, ADF&G, DEC and the Division of Governmental Coordination (DGC). It must be submitted during a 60 day opening for the district you wish to apply for a farm site in. During the first 30 days of the opening, the agencies will be available to help applicants. Detailed information is available in the application packet. Limited help will be available for applications submitted during the last 30 days of the opening. Submitting applications late in the opening will diminish the chances of correcting errors or omissions prior to the end of the period. Incomplete applications will not be considered. A Coastal Project Questionnaire and Certification Statement must also be submitted with the aquatic farm application. This questionnaire helps determine other permits that must be obtained prior to project initiation. Since most aquatic farms require structures to be placed in or on navigable waters of the United States, a Corps of Engineers (COE) application may be required. Your project may qualify under the terms of a COE general permit (GP 91-7) for aquatic farming if it meets certain criteria. **A copy of the GP is included in this packet.** Projects in the Kodiak and Afognak Island areas may also require a U.S. Fish and Wildlife Service (USFWS) permit. If uplands are required, an application to the appropriate agency will be necessary. Copies of all supplementary applications required for the proposed activity must be submitted with the aquatic farm application. Use the coastal project questionnaire as your guide. Please pay close attention to which agency is to receive the original application form and which agency receives the copy:

- DNR---      1)Original Application for Aquatic Farm Permits (with filing fee).  
                  2)Original Coastal Project Questionnaire and Certification Statement  
                  3)Copies of COE, USFS, USFWS and other permit applications determined to be necessary for the proposed project.

Note that proposed farm sites within a Critical Habitat Area also require a Special Area Permit application. Contact ADF&G for details.

Development and operation plans are a required part of the Application for Aquatic Farm Permits. These plans are designed to provide you with a tool to outline the facilities and biological requirements needed to reach your projected goals. The development plan will also be used by the State to determine if your farm has met the minimum requirements approved for it. Permit renewals will be contingent upon meeting the goals and milestones outlined in the development plan. If you have questions regarding development plans, **PLEASE** contact the ADF&G Mariculture Coordinator.

For Hatcheries:

The Aquatic Farm Act of 1988 also made provision for construction and operation of hatcheries for the purpose of supplying shellfish or aquatic plant seed stock to aquatic farms. Unless the proposed hatchery includes farm facilities located on State land, hatchery permits may be applied for at any time. Contact DGC or ADF&G for additional information.

For Acquisition of Seed or Brood Stock:

After an aquatic farm or hatchery is permitted, acquisition and transport permits are required to acquire seed or brood stock from wild populations in the State and to transport and possess shellfish or aquatic plants in any situation. These applications allow ADF&G to review potential resource management issues of proposed acquisitions, and disease and genetic concerns of proposed transports. The Aquatic Stock Acquisition Permit also transfers ownership of common property wild stocks acquired under this permit from the State to the permittee.

Pacific oysters (Crassostrea gigas) are the only fish, shellfish or aquatic plant that may be imported into the State of Alaska. They must be from a certified source and limitations may be placed on the size of the animal that may be imported. Check with ADF&G for a current listing of approved suppliers. An approved Shellfish/Aquatic Plant Transport Permit is required prior to the movement of any live fish, shellfish or aquatic plant.

If you propose to collect brood stock or seed stock (for example, mussel seed) from wild sources, the Shellfish/Aquatic Plant Transport Permit application form also functions as an Aquatic Stock Acquisition Permit application. Structures required for brood/seed stock acquisition may require COE and/or DNR permits. Please check with the respective agencies.

Do not submit transport permit application(s) with the aquatic farm permit. Approximately 45 days in advance of final aquatic farm permits issuance you should plan on submitting transport permits to ADF&G for consideration. Disease sampling, if required, will not be performed until all aquatic farm permits have been issued.

For Aquatic Farming Related Research or Education Projects:

Under certain conditions, permits may be issued for research or education projects that will benefit the industry. The proposed research must be valid and have an identifiable need. Information gained from the research becomes public information. Animals or plants collected, cultured or produced under these permits remain the property of the State and cannot be sold, bartered or traded. The ADF&G permit is issued for one year at a time, contains specific reporting requirements and may be renewed if the project plan is multi-year. Depending on the nature of the project, permits from other agencies

including DNR and the COE may be required. The Coastal Project Questionnaire and Consistency Statement form, available from DGC will help guide you in determining what permits are required. Contact the ADF&G Mariculture Coordinator for more information on research or education permits.

#### 4.HELP

Staff familiar with the aquatic farming program are available to assist in preparation of permit applications and to answer questions. They can be contacted at the offices listed below. Please remember, by contacting us early, you increase your chances of having time to develop and submit a viable application. To avoid unnecessary delays in the permitting process, the last 30 days of the opening are dedicated to determining completeness of applications submitted. Applications submitted early have much less chance of being rejected for technical errors or omissions.

#### 5.APPLICATION FORMS

Application packets for aquatic farm sites may be obtained from:

Department of Natural Resources  
Southcentral Regional Office  
3601 C Street, Anchorage  
*MAILING ADDRESS:*  
P.O. Box 107005  
Anchorage, AK 99510-7005

or

Department of Natural Resources  
Southeast Regional Office  
400 Willoughby, #400  
Juneau, AK 99801

Information on Department of Fish and Game permits may be obtained from:

Alaska Department of Fish and Game  
FRED Division  
Mariculture Coordinator  
P.O. Box 25526  
Juneau, AK 99802

Thank you for your interest in aquatic farming.

Sincerely,



James O. Cochran  
Mariculture Coordinator  
Department of Fish and Game  
F.R.E.D. Division

ACRONYMS

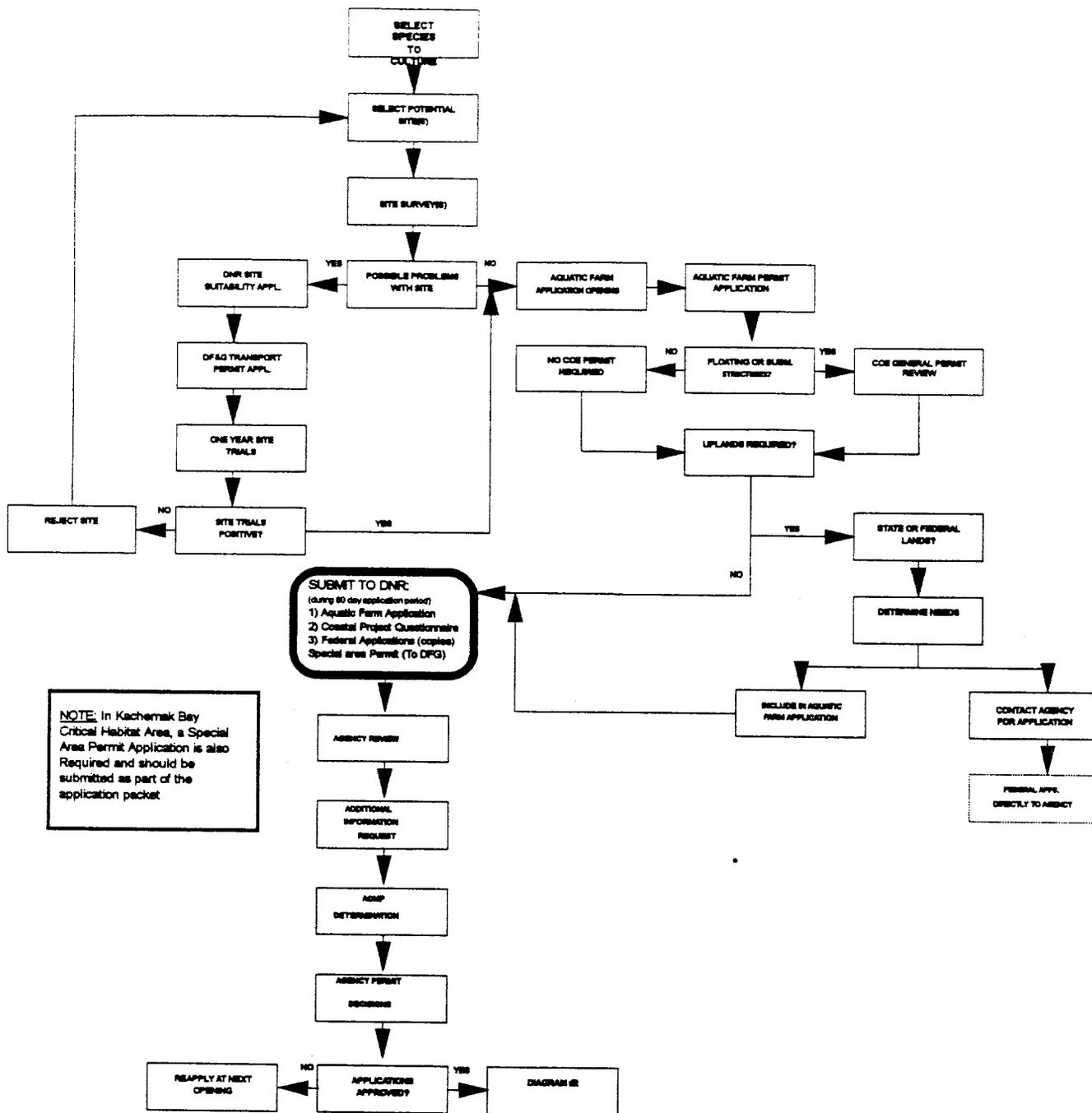
--COE: Corps of Engineers  
--DEC: Department of Environmental Conservation  
--ADF&G: Department of Fish and Game  
--DGC: Division of Governmental Coordination, Office of Management and Budget  
--DNR: Department of Natural Resources  
--SLA: Session Laws of Alaska  
--USFS: United States Forest Service  
--USFWS: United States Fish and Wildlife Service

AGENCY MARICULTURE CONTACTS:

DEC, Anchorage.	Mike Ostasz	(907)563-0318
ADF&G, Juneau.	Jim Cochran	(907)465-4160
DGC, Anchorage	Francis Pillifant	(907)561-6131
DNR, Juneau.	Janet Burleson	(907)465-3400
DNR, Anchorage	Janetta Pritchard	(907)762-2270

ATTACHMENTS:

1. Aquatic Farm District Maps
2. Diagram of the Aquatic Farm Permit Application Process
3. Aquatic Farm Permit Guidelines
4. Aquatic Farming Statutes
5. ADF&G Aquatic Farming Regulations
6. ADF&G Regulations for the Transport of Live Fish
7. DNR Aquatic Farming Regulations
8. Aquatic Farm Permit Application (informational copy)
9. General Permit for Aquatic Farm Structures within the State of Alaska

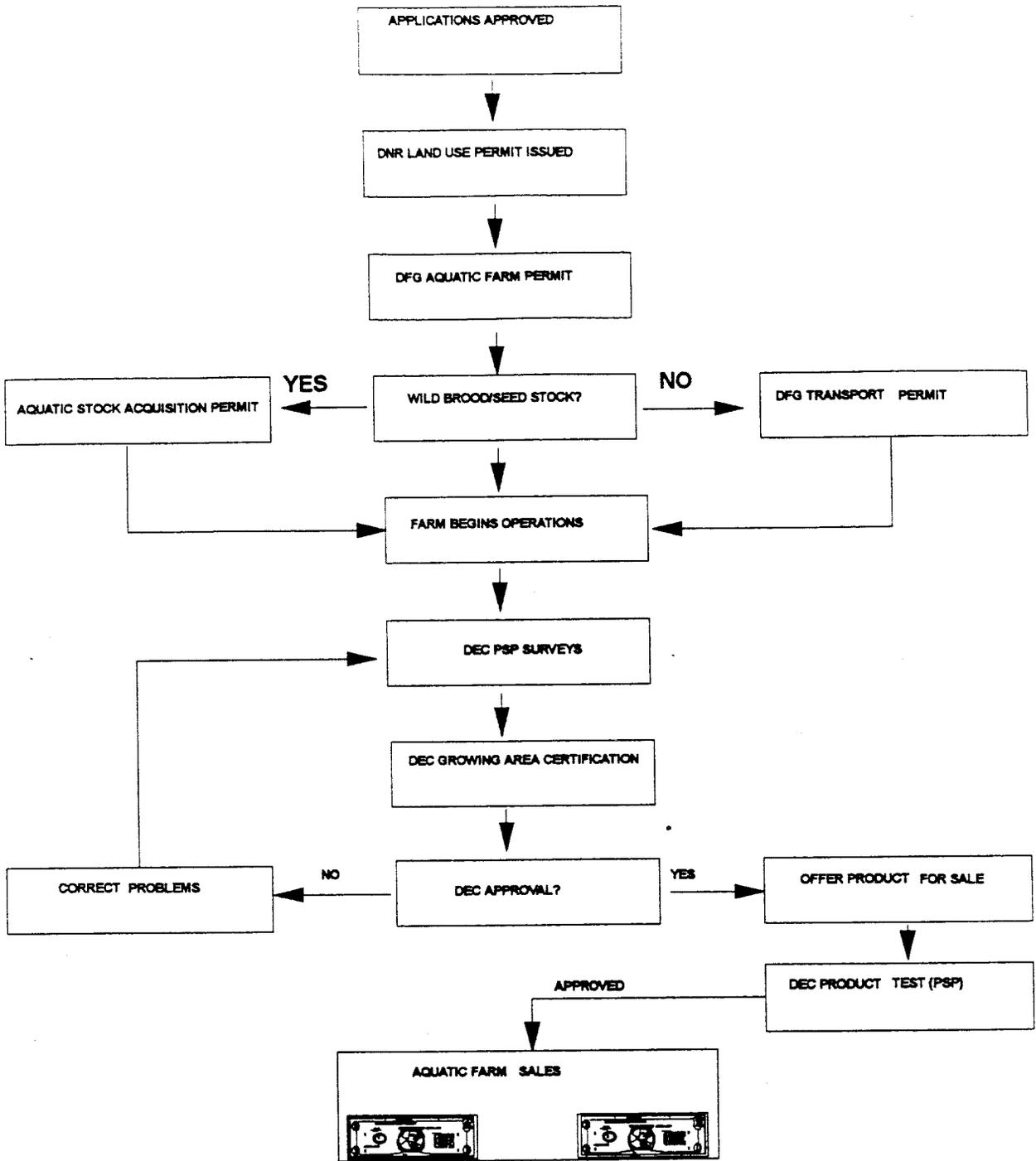


**NOTE:** In Kachemak Bay Critical Habitat Area, a Special Area Permit Application is also Required and should be submitted as part of the application packet

STATE OF ALASKA  
AQUATIC FARM APPLICATION PROCESS



DIAGRAM #1



STATE OF ALASKA  
AQUATIC FARM APPLICATION PROCESS



DIAGRAM #2

LAWS OF ALASKA

1988

Source  
HCS CSSB 514(R1s)

Chapter No.  
145

AN ACT

Relating to the farming of aquatic plants and shellfish; prohibiting the farming of Atlantic salmon; extending the moratorium of 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 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 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 PRODUCTION.** (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 mobil 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 contaminated 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 and 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 action regarding the issuance, denial, or conditioning of a permit under AS 16.40.100 or 16.40.120, the construction or operation of a farm or hatchery required to have a permit under AS 16.40.100, or

a harvest with a permit issued under AS 16.40.120.

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

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

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

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

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

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

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

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

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

(5) "seafood" means finfish, shellfish, and fish by-products, including but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, and pollock, but does not include aquatic farm products as defined as AS 16.40.199;

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

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

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

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

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

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

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

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

(c) Based on applications received under (b) of this section, and after consultation with the commissioner of fish and game and the commissioner of environmental conservation, the commissioner shall make a preliminary written finding under AS 38.05.035(e) that proposes sites in each district for which permit may be issued under AS 38.05.856.

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

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

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

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

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

(e) The commissioner shall adopt regulations establishing criteria for the approval or denial of permits under this section and for limiting the number of sites for which permits may be issued in an area in order to protect the environment and natural resources of the area. The regulations must provide for the consideration of upland management policies and whether the proposed use of site is compatible with the traditional and existing uses of the area in which the site is located.

\* Sec. 15. AS 38,05.945(a) is amended to read:

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

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

(2) zoning of land under applicable law;

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

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

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

(6) a preliminary finding under AS 38.05.035(e) and 38.05.855(c) concerning sites for aquatic farms and related hatcheries.

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

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

appropriate

- (1) regional fish and game councils established under AS 16.05.260; and
- (2) coastal resource service areas organized under AS 46.40.110 - 46.40.210.

\* 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 38.05.855 within 30 days after giving notice of a preliminary finding under AS 38.05.035(e) and 38.05.855(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 38.05.083 or 38.05.856, 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 38.05.083 and 38.05.856, enacted by secs. 13 and 14 of this Act. The report must include

- (1) the number of applications received under AS 38.05.083 and 38.05.856 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, 1988, 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 structure 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 effect 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;

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

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

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

Sec. 4. Section 1 of this Act is repealed July 1, 1990 [1988].

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

## Article 4. Aquatic Farming

### Section

- 200. Applicability of regulations
- 210. Permit required
- 220. Aquatic farm operation permit application
- 230. Additional information
- 240. Review and determination
- 250. Permit conditions
- 260. Inspection of a farm

### Section

- 270. Annual report
- 280. Permit application, renewal, and transfer
- 290. Aquatic stock acquisition permit
- 300. Limitations on sale, transfers of stock, and products
- 310. Disease control and inspection
- 400. Definitions

**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 16.05.050            AS 16.40.100  
                 AS 16.05.092            AS 16.40.160  
                 AS 16.05.340(b)

**5 AAC 41.210. PERMIT REQUIRED.** An aquatic farm operation permit, issued by the commissioner, is required for the operations 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 management and budget, division of governmental coordination for the 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 16.05.050 AS 16.40.100  
AS 16.05.092 AS 16.40.160  
AS 16.05.340(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 16.05.050 AS 16.40.100  
AS 16.05.092 AS 16.40.160  
AS 16.05.340(b)

**5 AAC 41.260. 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 16.05.050 AS 16.40.100  
AS 16.05.092 AS 16.40.160  
AS 16.05.340(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; 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 41.280. PERMIT APPLICATION, RENEWAL, AND TRANSFER.** (a) An



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 16.05.050            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.** (a) 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 16.05.050            AS 16.40.150  
              AS 16.05.092            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 16.05.020            AS 16.05.340(b)  
          AS 16.05.092            AS 16.40.199  
          AS 16.05.251