

Title 5. Fish and Game.

Chapter 41. Transportation, Possession and

Release of Live fish; Aquatic Farming.

Article 4. Aquatic Farming.

5 AAC 41.200(2) is amended to read:

(2) [NOTWITHSTANDING 5 AAC 95.600 - 5 AAC 95.620,] establish procedures regarding the operation of permitted aquatic farms and hatcheries. (Eff. 4/10/88, Register 106; am 8/12/89, Register 111; am 6/17/2001, Register 158; am 5/19/2005, Register 174; am _____/_____/2009, Register _____)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.160

AS 16.05.092

5 AAC 41.240(a)(5) is repealed and readopted to read:

(5) the proposed aquatic farm or hatchery operation and development plan demonstrates feasibility by describing how

(A) the operation will improve the productivity of the species intended for culture above what would occur in natural conditions using methods that may include

- (i) predator exclusion;
- (ii) the reduction of competing species;
- (iii) density manipulation by culling and redistribution;
- (iv) import of naturally-produced seed from either onsite or offsite;

(v) import of hatchery-produced seed;

(vi) programming harvest to optimize growth and shellfish
condition; and

(vii) habitat improvement;

(B) for on bottom culture, the operation will improve the productivity of
the species intended for culture above what would occur in natural conditions using
methods that, in addition to those methods specified in (a)(5)(A)(i) – (vii) must also
include

(i) predator exclusion netting during the critical life stages of the
species to be cultured; and

(ii) import of hatchery-produced seed;

(C) any support facilities, culture gear, and anchoring systems will be
installed and maintained;

(D) the projected harvest rotation schedule is consistent with the life
history of the species intended for culture.

(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
_____/_____/2009, Register _____)

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

5 AAC 41.250(a)(4) is repealed and readopted to read:

(4) identify the aquatic farm or hatchery site as follows:

(A) with the name, physical address, and telephone number of the principle 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 on a

(i) buoy that is at least 15 1/2 inches in diameter by 19 1/2 inches on all corners of the suspended operations;

(ii) sign that is permanently secured to the land and visible from the water on the site and at least 12 inches high by 24 inches wide for intertidal operations;

(B) for subtidal operations, on-bottom delineation must be marked with

(i) lead line and visible markers; and

(ii) buoys at least 15 1/2 inches in diameter by 19 1/2 inches in height placed on all corners on top of subtidal sites at the surface of the water;

5 AAC 41.250(a)(11)(A) is amended to read:

(A) live geoducks is 24 [50] percent;

5 AAC 41.250(a)(11)(B) is amended to read:

(B) processed geoducks is 9 [20] percent;

(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 _____/_____/2009, Register _____)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.160
AS 16.05.092

5 AAC 41.257 is repealed and readopted to read:

5 AAC 41.257. Security requirements for wild stock restoration. (a) Within one year after the harvest of wild stock on an aquatic farm site begins the permit holder shall provide the department proof of reseeding the aquatic farm site where the wild stock was harvested. The reseeding must be based on a ratio of five hatchery-produced spat to one clam harvested. The number of clams to be reseeded is based on the fish ticket data from the sale of wild stock. The proof of reseeding information must be included in the annual report as specified in 5 AAC 41.270(e).

(b) The proof of reseeding information for an aquatic farm site must include and be submitted to the department and include the following

- (1) valid operation permit number of the farm site reseeded
- (2) a bill of sale from a state approved hatchery including a transport permit showing the purchase of spat 8 to 10 millimeter in length;
- (3) a time stamped digital video that shows actual placement of spat;
- (4) GPS coordinates of the area planted with hatchery-produced seed must be provided for the farm site reseeded;

(5) proof of properly secured use of predator netting as specified in the permit through the use of the digital video camera; for the purposes of this paragraph,

(A) "predator netting" means netting of an acceptable material and acceptable size to minimize entrapment and potential injury to fish species and wildlife as approved in the aquatic farm operational and development plan; and

(B) "properly secured predator netting" means the use of predator netting that is tightly secured to the substrate, maintained, inspected and repaired on a regular basis.

(c) Failure of the permit holder to provide proof of fully reseeding the aquatic farm site within one year after harvest begins shall require the permit holder to immediately provide proof of a certificate of deposit or security bond to the mariculture coordinator in the amount necessary to cover the cost of the purchase of hatchery spat sufficient to fully reseed the farm site based on the removal of wild stock as specified in (a) of this section. Fish ticket data will be used to determine the amount of spat necessary based on a ratio of five spat for each wild clam harvested. Failure of the permit holder to provide a certificate of deposit or security bond due to the aquatic farm permit holder's failure to reseed the farm site may result in a forfeiture of the aquatic farm permit.

(d) The certificate of deposit or security bond will be returned to the aquatic farmer only when the aquatic farmer has proven to the commissioner that the reseeding of the stock has occurred at the farm site as specified in (b) of this section. The commissioner will return the certificate of deposit or security bond to the permit holder no later than three months after the commissioner has determined that the permit holder has complied with the reseeding of wild stock.

(e) If the aquatic farm permit holder fails to meet the restoration of wild stock requirements upon termination of the farm site lease and operation permit, the permit holder is in violation of the required provisions specified in AS 16.40.100(e) and of this section, and responsible for reimbursing the state for all costs associated with restoring the geoduck wild stock to the populations levels found at the farm site when the farm site was initially permitted.

(f) The provisions of this section do not apply to a permit holder who holds a permit for an aquatic farm site that does not contain wild stock. (Eff. 11/25/2005, Register 176; am _____/_____/2009, Register _____)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.160
AS 16.05.092

5 AAC 41.270(a) is amended to read:

(a) at least 24 hours before **the landing of each harvest of** wild stock harvested from the permit holder's aquatic farm site, the permit holder must notify, during business hours, an authorized representative of the department by telephone. The notification must include
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(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 _____/_____/2009, Register _____)

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 41.276. Hatchery Management Plans and Reports. (a) The annual report form specified in 5 AAC 41.270(e) will include the brood stock acquisitions and production by species conducted by the hatchery the previous year in addition to other information requested by the commissioner.

(b) No later than January 15, a hatchery operation permit holder shall provide an updated annual management plan to the department. The annual hatchery management plan must include the following

- (1) anticipated brood stock acquisition needs;
- (2) number of species to be collected;
 - (A) location of species collected;
 - (B) schedule of species collection;
- (3) anticipated transports;
- (4) projected availability of seed stocks for the upcoming year.

(c) Once every five years, a hatchery operator will provide the commissioner with a five-year projected operations plan. The five-year operation plan will be filed as an addendum to the initial permit originally approved by the commissioner. The operation plan must include the following:

- (1) overall operation of brood stock seed (larval or spat), including holding tank size; flow rate; separation of species; and stock genetic and disease depuration plan;
 - (2) algal species used for feed and a description of algal culture;
 - (3) a floor plan of hatchery showing tank location, species, and stock separation;
- or any other modification done since original permit was issued;

(4) legal documentation from the hatchery appointing an authorized agent to act on the hatchery's behalf. (Eff. ____/____/2009, Register _____)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.160
AS 16.05.092