

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 _____/_____/2010, 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5 AAC 41.240(a)(5) is repealed and readopted to read: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) except as specified in (C) of this paragraph, 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) of this paragraph, includes

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

(ii) the import of hatchery-produced seed;

(C) for on-bottom littleneck clam culture, the operation will improve the productivity of littleneck clams above what would occur in natural conditions and using methods that, in addition to those methods specified in (A) of this paragraph, includes

(i) a predator exclusion device during the critical life stages of the cultured littleneck clams; or

(ii) the import of hatchery-produced seed;

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

(E) 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 _____/_____/2010, 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 an

(i) identification surface buoy that is at least 15 1/2 inches in diameter by 19 1/2 inches high and that is connected to an adequately secured anchor and placed on one corner of the suspended or subtidal culture operations;

(ii) identification 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 suspended culture operations,

(i) all corners of each site parcel must be visibly marked with a surface buoy connected to an adequately secured anchor; or

(ii) if the site is not fully operational, all corners of the operational area must be visibly marked with a surface buoy connected to an adequately

secured anchor and be within the site parcel coordinates defined in the operation permit;

(C) for intertidal culture operations,

(i) 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

(ii) if the site is not fully operational, all corners of the operational area must be visibly marked with a surface buoy connected to an adequately secured anchor and be within the site parcel coordinates defined in the operation permit;

(D) for subtidal culture operations, on bottom delineation must be visibly marked with

(i) securely anchored sinking ground lines placed along the boundary of the site parcel or, if the site is not fully operational, along the boundary of the operational area; and

(ii) a weighted marker or stake anchored securely and placed on all corners of the site parcel or 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.

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

(A) live geoducks is 21 [50] percent;

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

(B) processed geoducks is **8** [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 _____/_____/2010, 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 geoduck restoration. (a)

Within one year after the harvest of wild stock geoducks on an aquatic farm site begins, the aquatic farm operation permit holder shall provide to the department proof under (b) of this section that the permit holder has reseeded the aquatic farm site where the wild stock geoducks were harvested. The reseeded must be based on a ratio of five hatchery-produced spat to one geoduck harvested. The number of geoducks to be reseeded is based on the fish ticket data from the sale of wild stock.

(b) The aquatic farm operation permit holder shall submit proof of reseeded information for an aquatic farm site to the department, including the following:

- (1) a completed proof of reseeded form provided to the permit holder by the department;
- (2) a bill of sale from a state approved hatchery showing purchase of geoduck spat that provides the

- (A) number of spat shipped;
 - (B) name of the permit holder the spat was shipped to; and
 - (C) size of geoduck spat shipped;
- (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;
- (4) a timed, stamped digital video that shows
- (A) actual placement of the spat; and
 - (B) properly secured predator exclusion devices approved for use in the operation permit for that aquatic farm site;
- (5) the Global Positioning System (GPS) coordinates of the area planted with hatchery-produced spat on the aquatic farm site.

(c) An aquatic farm operation permit holder that fails to provide proof of fully reseeded the aquatic farm site within one year after harvest begins as required under this section, shall immediately file with the commissioner a certificate of deposit or security bond in the amount that the commissioner determines is necessary to cover the cost of the purchase of hatchery geoduck spat sufficient to fully reseed the aquatic farm site based on the removal of wild stock geoducks as specified in (a) of this section. An aquatic farm permit holder that fails to provide a certificate of deposit or security bond due to the permit holder's failure to reseed the farm site may result in a forfeiture of the permit holder's aquatic farm operation permit.

(d) The certificate of deposit or security bond will be returned to the aquatic farm operation permit holder if the permit holder provides proof to the commissioner that the reseeded of the stock has occurred at the aquatic 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 reseeded of wild stock requirements.

(e) If the aquatic farm operation permit holder fails to meet the restoration of wild stock requirements upon termination of the aquatic 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 wild stock geoduck to the populations levels that existed at the aquatic farm site when the farm site was initially permitted.

(f) 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.

(g) For the purposes of this section,

(1) "predator exclusion device" means a barrier of a material and size that is maintained to prevent predators from gaining access to farmed shellfish spat and minimizes the entrapment and potential injury to fish species and wildlife, as approved in the aquatic farm operational and development plan;

(2) "properly secured" means the predator exclusion device is tightly secured to the substrate, maintained, inspected and repaired on a regular basis. (Eff. 11/25/2005, Register 176; am _____/_____/2010, Register _____)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.160
AS 16.05.092

The lead-in language of 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, a representative of the department by telephone. The notification must include
.....

(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 ____/____/2010, 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 a permitted hatchery the previous year and other information requested by the commissioner.

(b) No later than January 15 of each year, 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;
- (3) location of species to be collected;
- (4) schedule of species collection;
- (5) anticipated transports;

(6) projected availability of seed stocks for the upcoming year.

(c) A hatchery operation permit holder shall manage the hatchery in accordance with a basic management plan approved by the commissioner. The basic management plan shall be drafted in conjunction with departmental staff and the hatchery permit holder and filed as an addendum to the current permit approved by the commissioner and is to be revised whenever changes are necessary or at least every five years. (Eff. ____/____/2010, Register _____)

Authority: AS 16.05.050 AS 16.40.100 AS 16.40.160

AS 16.05.092