



# ALASKA AQUATIC FARM PROGRAM



Application Opening Period  
January 1, 2009 through April 30, 2009



## PART III AUTHORIZATIONS

The following sections provide a summary of authorization requirements for each agency that are necessary to operate an aquatic farm in the state of Alaska including attachments of pertinent information for your reference and use.

The authorizations routinely required by the State of Alaska, Departments of Natural Resources (ADNR), Fish and Game (ADFG), and Environmental Conservation (ADEC) and Federal agencies, to site and operate an aquatic farm project can be found in Table 1, on Page 10, of Part 1 of this packet. Contact information for all state and federal agencies is also included in Table 1.

### **ALASKA DEPARTMENT OF NATURAL RESOURCES, DIVISION OF COAST & OCEANS MANAGEMENT, ALASKA COASTAL MANAGEMENT PROGRAM SECTION**

#### **► Alaska Coastal Management Program Requirements**

In order for state and federal agencies to issue aquatic farming authorizations, the project must be consistent with the standards of the Alaska Coastal Management Program (ACMP; per 11 AAC 112). State agencies, affected coastal districts, and the public will be reviewing your proposed activity for consistency with these standards and with the enforceable policies of the affected coastal district. The Office of Project Management and Permitting (OPMP) is responsible for coordinating this review and determining whether your project is consistent with this program.

During the ACMP review process reviewers have opportunity to request from applicants any additional information that is relevant to the consistency review and individual resource agencies' own statutory and regulatory authorities. **Please Note: If an applicant does not respond to a reviewer's request for additional information within 30 days, their file may be closed and the applicant may not receive their requested site.**

The Aquatic Farm joint-agency application serves as the Coastal Project Questionnaire. For more information on ACMP standards, to verify if your project lies within a coastal district, the consistency review process, and appeals to ACMP consistency determinations, contact DCOM at 907-465-3562 in Southeast Alaska or 907-269-7470 for all other sites in Alaska. The statewide ACMP consistency standards are attached. For individual coastal district enforceable policies, please visit the website at: <http://www.alaskacoast.state.ak.us/Explore/alldistEPS.html>

### **ALASKA DEPARTMENT OF NATURAL RESOURCES, DIVISION OF MINING, LAND AND WATER**

#### **► Aquatic Farm Ten-Year Lease Requirements**

Shortly after approval of an application in a final best interest finding, (if any appeals were upheld by the commissioner) ADNR grants a ten-year property lease to operate an aquatic farm. Before the lease is

issued items are required in advance including the first year's annual lease fee. The charge for the lease will be based on a fair market value appraisal or the division's current fee schedule. Currently, the fee schedule is \$450 for the first acre, or portion thereof, plus an additional \$125 per acre, or portion thereof. Additional fees are required for any associated caretaker facilities, floating or upland, as set out in regulations or fee schedules. As with any lease, an applicant is not required to use the fee schedule and may choose to obtain an independent appraisal. The appraisal must be done in accordance with appraisal instructions issued by ADNR.

Because leases are issued for a term of ten years, a boundary survey is not required. However, the department reserves the right to require one should boundary conflicts or disputes over acreage arise.

A bond is required before issuance of the lease and is determined by such factors as projected site cleanup and restoration should the lessee fail to do so at lease expiration, termination, or abandonment. The minimum bond amount is \$2,500. However, if three or more lessees post an association bond to cover all of their leases, the minimum-security amount is 50 percent of the amount individually calculated for each lease. Bonds are subject to periodic review and adjustment, if necessary.

The definition of aquatic farm in the enabling legislation states that aquatic farms must produce a product that is "sold or offered for sale". The ADNR regulations require that the aquatic farm meet commercial use of the site beginning no later than the fifth year of the lease. This requirement must be reflected in the required development plan, which is incorporated as a provision of the lease. The commercial use requirement was implemented in an effort to prevent "hobbyists" from speculating and not using an area for the commercial purposes intended. If the commercial use requirement is not met by year five of the lease and continued each year for the remaining term, the lease will be terminated. The ADNR defines commercial use as: **the minimum annual sales of aquatic farm product (total of all species combined) of at least \$3,000 per acre or fraction of an acre, or \$15,000 per farm, whichever is less. (11 AAC 63.030(b))**

Personnel housing associated with aquatic farm operations may be approved only if: (1) the level of site development will require personnel be present on a daily basis, 2) personnel cannot reasonably commute to the site by road, boat or aircraft, on a daily basis, and 3) nearby land suitable for housing is not available for sale or lease. This applies to upland facilities as well as floating facilities. **Any housing facility may not be used as a permanent place of abode, must be temporary in nature, and must be designed and constructed so it can be removed and the site completely restored within 30 days if the lease terminates or housing ceases to be necessary. The housing facility may not be placed on a permanent foundation. (Refer to 11 AAC 63.040(b))** In the Kachemak Bay and Fox River Flats Critical Habitat Areas, only those float structures essential to the farm operation may be permitted, per the policies of the Kachemak Bay and Fox River Flats Critical Habitat Area Management Plan.

A lease that is in good standing may be assigned. "Good standing" as described in 11 AAC 63.900(a)(8) means being in compliance with all provisions of all required authorizations.

Applicants are cautioned that the issuance of state authorizations will not guarantee that aquatic farms can operate free of impact from the 1989 Exxon-Valdez oil spill. The state makes no warranty, expressed or implied, nor assumes any liability, whatsoever, regarding the environmental quality of the sites offered at auction. This includes, without limitation, the presence of hydrocarbons now or in the future, the capability of the shellfish growing site, the product to be free from the effects of the 1989 oil spill, or meet the requirements under the National Shellfish Sanitation Program. If you have questions regarding oiling in a specific area, please contact the Pipeline Corridor Regional Office at 907-271-4336 for assistance or you may visit the Exxon Valdez Oil Spill Trustee Council's website at: <http://www.oilspill.state.ak.us/>

Annual inspections are conducted by the ADFG and the ADNR to the extent possible to monitor compliance with authorized aquatic farm activities.

If a potable water source is to be used near an aquatic farm, a Water Right must be obtained. Please

refer to the Water Rights in Alaska Fact Sheet attached. If you need additional information, please contact the Water Resources Section with the Division of Mining, Land and Water at the office nearest to your proposed site - Anchorage (907) 269-8503 or Juneau (907) 465-3400, or you may visit their website for further information and/or to download a Water Right application at:  
<http://www.dnr.state.ak.us/mlw/water/index.htm>

## **ALASKA DEPARTMENT OF FISH AND GAME, DIVISION OF COMMERCIAL FISHERIES**

### **► Aquatic Farm Operation Ten-Year Permit and Transport/Acquisition Permit Requirements**

The ADFG Aquatic Farm Operation Permit is issued subsequent to the ADNR lease. The operation permit allows an applicant to construct and operate an aquatic farm (or a hatchery that supplies aquatic plants or shellfish to an aquatic farm) if the technical and operational feasibility of the venture and the physical and biological suitability of an area to support the operation can be determined without making significant alterations in traditional fisheries or other existing uses of fish and wildlife resources or the habitats that support those resources. (AS 16.40.100-105)

Once you obtain an Aquatic Farm Operation Permit for your farm, statute requires the issuance of a Shellfish/Aquatic Plant Transport Permit and/or an Aquatic Stock Acquisition Permit before you transfer or acquire shellfish or aquatic plants (seed or brood stock). Applications for transport and/or acquisition permits for these activities must be submitted to the ADFG for approval. Copies of the permits must accompany the seed or brood stock. You must contact the ADFG approximately 30 days before your aquatic farm authorizations are scheduled to be issued to apply for transport and/or acquisition permits for your proposed activities. Please contact the Mariculture Coordinator in Juneau at (907) 465-6150 for more information. A transport and/or acquisition permit application should NOT be submitted with the aquatic farm application form in Part II of this packet.

Please note that currently, the Alaska Department of Fish and Game only allows for the importation of Pacific oyster seed. All other species proposed for culture must be from a certified hatchery or nursery operating within the state of Alaska. A list of certified seed sources is found on the ADFG website at: <http://www.cf.adfg.state.ak.us/geninfo/enhance/maricult/certsrce.php> It is the applicant's responsibility to research the intended species for culture to ensure seed for this species is available for this activity.

The ADFG regulations at 5 AAC 41.240(a) prohibits the permitting of farm sites where significant wild stock populations of the species intended for culture occur. On-bottom aquatic farm proposals for limited entry commercial fishery species should be sited where there are minimal numbers of the species intended for culture, which demonstrates the potential of the habitat to support that particular species while at the same time, would not support and attract a limited entry commercial fishery. The ADFG has determined that an insignificant population of geoducks is no more than 12,000 pounds of geoducks on a six acre farm site and an average of no more than 2,000 pounds per acre of an aquatic farm site. Other shellfish insignificant population threshold determinations will be made by ADFG on a case by case basis.

For aquatic farm projects proposing to use on-bottom culture, the ADFG requires that a user fee for a survey of the initial abundance of the species intended for culture be submitted with the 2007 aquatic farm opening application. The user fee for a sub-tidal, on-bottom culture aquatic farm site survey is \$5,000 per site and for an inter-tidal, on-bottom culture aquatic farm site survey is \$2,000 per site. Any remaining funds will be returned to the applicant in the event that the department does not complete the survey, if costs for completing the survey are less than the maximum cap amount, or for sub-tidal surveys, if the applicant identifies a surveyor that meets specific department eligibility criteria and is approved by the department to conduct the sub-tidal survey. A user fee will still be required to be submitted with the application even if a surveyor is identified by the applicant. The department will work with the applicant to reduce the cost of the user fee for the survey where possible.

The farmer is required to notify the department of each landing event and record on fish tickets the number of wild stock shellfish harvested at the farm site, in order to maintain an account of wildstock over the five year harvest window for department use to ensure that the farmer meets provisions in 5 AAC

41.250, a regulation that requires an aquatic farmer to leave the same number of wild stock of the species approved for culture on the site as were present when aquatic farm operations began. In addition, a performance-based security for wild stock restoration, the amount of which is based on department replacement costs of the wild stock taken in the event that the farmers fail to perform, will be required to be filed with the department within 30 days after the harvest of wild stock in the amount specified by the department. The security will be released to the farmer within six months after termination of the farm site when the department determines that the wild stock restoration provision has been met at the farm site.

The aquatic farmer is responsible for obtaining water quality certification and it is recommended that applicants obtain this certification before the lease and operation permit is issued. There is no guarantee how long it will take for an area to become ADEC certified. **Please note: The lessee is still responsible for payment of the ADNR's lease fees** even though they may not be able to begin operations due to other agencies' authorization requirements.

Annual inspections are conducted by the ADFG and the ADNR to the extent possible to monitor compliance with authorized aquatic farm activities.

## **ALASKA DEPARTMENT OF FISH AND GAME, SPORT FISH DIVISION**

### **► Special Area Permit Requirements**

An ADFG Special Area Permit (5 AAC 95.300 – 990) is required to establish and operate an aquatic farm within a special area. A "special area" is defined as a state game refuge, a state game sanctuary, or a state fish and game critical habitat area, established under AS 16.20. Currently, aquatic farming activities for suspended culture sites are only allowed within the Kachemak Bay and Fox River Flats Critical Habitat Areas. Applications will be reviewed for consistency with the goals and policies of the Kachemak Bay and Fox River Flats Critical Habitat Areas Management Plan.

## **ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL HEALTH**

### **► Growing Area Classification, Shellstock Shippers and Shellfish Harvester's Permit Requirements**

A Growing Area Classification determines that your growing or harvesting water meets the water quality standards set out in the National Shellfish Sanitation Program.

A Shellstock Shippers Permit authorizes individuals/businesses to grow, harvest, buy, or repack and sell shellstock. While this authorization does not allow the shucking of shellfish, it does allow shipping of shucked shellfish.

A Shellfish Harvester's Permit allows a person to take shellstock from a growing area that has been classified by the ADEC. Please be aware that persons holding a Shellfish Harvester's Permit may only sell product to a processor or shipper who is also permitted by the ADEC.

Each of the ADEC authorizations listed above must be obtained **PRIOR** to placing your product into commerce. The applications for the Shellstock Shipper and Harvester permits can be found in the 2007 ADEC Seafood Processors Permit Application and the 2007 Shellfish Harvester Application packets available on the ADEC website at: [www.state.ak.us/dec/eh/fss/seafood/processingguide.htm](http://www.state.ak.us/dec/eh/fss/seafood/processingguide.htm) or from any ADEC or ADFG office statewide. A brochure outlining the details of the ADEC's shellfish permits is attached.

Water quality in the growing area must meet the standards of the National Shellfish Sanitation Program (NSSP), incorporated by reference in 18 AAC 34.200. The full text of the NSSP is available on the internet at [www.issc.org](http://www.issc.org) (select "NSSP" from the left-hand column). Once the growing area has been found to meet the NSSP standards, ADEC issues a Growing Area Classification. The Growing Area Classification ensures that the growing or harvesting area(s) is within the acceptable limits for fecal

coliform. A shellfish growing area is closed to shellfish harvesting for commercial sales unless classified by the ADEC. Therefore, aquatic farm product may only be sold from sites that have an ADEC water quality classification. In general, the growing area must be free of sewage discharges. Please refer to the joint-agency application in Part II, under the ADEC, Environmental Health Classification Guidelines, for a listing of items that should be considered when selecting a site for aquatic farming operations.

The ADEC charges \$500 per growing area classification, which can be pro-rated among two or more farms within the same classified area. Through a Memorandum of Understanding (MOU) between the individual and the ADEC, most of the water quality sampling can be done by the individual under the procedures described in the MOU. Depending on the location of your farm, 15 or 30 water samples will be required from selected sampling sites to initially classify the area. Samples must be collected in both wet and dry weather, during low and high tides, and during the period you intend to harvest. Unless adverse pollution events occur, such as periods of high rainfall or animal activity in the area, it generally takes a minimum of 30 days to collect all the water samples necessary for classification.

Growing areas must be reclassified annually. Five days of sampling is required for approved areas unless it has a "remote" status, meaning the area has no human habitation and is not impacted by any actual or potential pollution sources. Remote areas require only two days of sampling. The fee for reclassification is \$150 per day and also can be pro-rated among two or more farms within the same classification area.

Presently, only the ADEC Environmental Health Lab located at 5251 Hinkle Road, Anchorage, Alaska is authorized to analyze the water samples. Water samples must arrive in Anchorage within 30 hours of being collected, therefore Gold Streak or some other air package service will be required to get the samples to the lab on time. The individual(s) submitting the samples for analyses bears the cost of shipping daily water samples to the lab in Anchorage. If the samples arrive more than 30 hours after being collected, they cannot be tested and more samples must be submitted. This is another important aspect to consider when selecting an aquatic farm site. More details about water quality classification requirements can be found in the attached brochure, by contacting George Scanlan at the ADEC in Anchorage at (907) 269-7638, or you may contact the Lab staff directly at (907) 375-8200 for information.

In addition to water quality classification, testing for Paralytic Shellfish Poison (PSP) is required before any commercial sales are authorized. Currently, the only laboratory approved in the state for PSP testing is the ADEC Lab in Anchorage. Levels cannot exceed the NSSP standard of 80 ug/100 g of tissue. For your information, a Uniform Shellfish Sampling Plan for Paralytic Shellfish Poison is also attached. This plan describes a four level sampling method used for monitoring PSP at your farm.

Eventually you will be placing the shellfish into commerce as required by the ADNR lease. Therefore, you are also required to have a Hazard Analysis Critical Control Point (HACCP) Plan. A HACCP plan describes the types of hazards that are reasonably likely to occur that could affect the safety of your product and the strategies for controlling those hazards. You must monitor those control strategies and keep written records. The University of Alaska, Marine Advisory Program, periodically offers HACCP training and can be contacted at (907) 274-9691. Additional HACCP training courses are available on the internet at: <http://seafood.ucdavis.edu/haccp/training/masterca.htm>  
More information about HACCP plans is available either from the Marine Advisory Program or by contacting George Scanlan, ADEC in Anchorage, at (907) 269-7638.

If you plan to sell your product out of state, you will also need to be placed on the Interstate Certified Shellfish Shippers List. The ADEC must perform an inspection of your facility within the 30 days preceding the date you are listed. Therefore, if you plan to ship out of state, you will need to contact the department in a timely manner to make those arrangements.

Depending on your aquatic farm operation, there may be other authorizations necessary from the ADEC, Division of Environmental Health. The following is a list of possible authorizations that may be required:

- Shellfish Shucker Packer (allows a person to shuck and pack shellfish or may act as a Shellstock

Shipper or a reshipper or may repack shellfish originating from other certified dealers).

- Export Certification (provided as a service by the ADEC, Division of Environmental Health, to assist shellfish shippers) The issuance of export certifications is dependent upon the harvester's and shipper's compliance with 18 AAC 34 and the NSSP requirements.

The ADEC website at [www.state.ak.us/dec/deh](http://www.state.ak.us/dec/deh) has all of the information needed to obtain approval from the department as well as links to other important sites

## List of Attachments

### General Information

- Available Resources for Aquatic Farming Operations

### ADNR/Mining, Land and Water

- Water Rights in Alaska Fact Sheet

### ADFG

- Special Area Permit Application for Kachemak Bay & Fox River Flats Critical Habitat Management Areas
- Shellfish/Aquatic Plant Transport Permit Application
- Aquatic Stock Acquisition Permit
- Commercial Shellfish Permits Brochure

### ADEC

- Classification of Commercial Shellfish Growing & Harvest Areas Brochure
- Uniform Shellfish Sampling Plan for Paralytic Shellfish Poison

### Alaska Dept. of Commerce, Community and Economic Development, Division of Occupational Licensing

- Alaska Business License Instructions and Application

The following **federal authorizations** and applications are enclosed for your convenience:

COE Applicability Certification for GP 91-7N; Structures in navigable waters east of Cape Resurrection. Structures include associated float houses and mooring buoys, in navigable waters east of Cape Resurrection

COE Applicability Certification for GP 91-7N; Individual Permit Application for structures, including associated float houses and mooring buoys, in navigable waters west of Cape Resurrection

- Instructions and Application for Department of the Army Permit (individual)  
For structures in navigable water west of Cape Resurrection
- U.S. Army Corps of Engineer's Nationwide Permit No. 4  
For on-bottom activities in intertidal/submerged areas

### US Forest Service

- Application Form for Transportation and Utility Systems and Facilities on Federal Lands for associated aquatic farming facilities on uplands within a national forest

### National Ocean and Atmospheric Administration (NOAA)

- Navigational nautical charts can be obtained from various suppliers around the state. A list is included as an attachment for your convenience or you may find a supplier listing at the following website: [http://www.naco.faa.gov/agents\\_acc.asp](http://www.naco.faa.gov/agents_acc.asp)