



LAWS OF ALASKA

2005

Source

CSHB 198(RES)(title am)

Chapter No.

AN ACT

Relating to aquatic plant and shellfish farming; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to aquatic plant and shellfish farming; and providing for an effective date.

2
3 * **Section 1.** AS 16.40.100(b) is amended to read:

4 (b) A permit issued under this section authorizes the permittee, subject to the
5 conditions of AS 16.40.100 - 16.40.199 and AS 17.20, to

6 (1) acquire, purchase, offer to purchase, transfer, possess, sell, and
7 offer to sell stock and aquatic farm products that are used or reared at the hatchery or
8 aquatic farm; **and**

9 **(2) except as provided in (f) of this section, harvest and, without**
10 **further cultivation, sell an insignificant population that may be present at the**
11 **aquatic farm site of a wild stock of a shellfish species intended to be cultured at**
12 **the site** [. A PERSON WHO HOLDS A PERMIT UNDER THIS SECTION MAY

13 SELL OR OFFER TO SELL SHELLFISH STOCK TO THE DEPARTMENT OR TO

1 AN AQUATIC FARM OR RELATED HATCHERY OUTSIDE OF THE STATE].

2 * **Sec. 2.** AS 16.40.100(e) is amended to read:

3 (e) Upon the expiration or termination of a permit issued under this section, a
4 person who holds a permit for an aquatic farming site where wild stocks of shellfish
5 indigenous to the site are cultured shall, as a condition of the permit, restore the wild
6 stock of shellfish, as consistent with sustained yield management of the wild stock, to
7 the population level that existed on the site when the permit for the site was initially
8 issued by the commissioner. **A permit holder is not required to restore that**
9 **portion of the wild stock of shellfish that was removed from an aquatic farming**
10 **site by a common property fishery conducted after the issuance of the permit for**
11 **the aquatic farming site.**

12 * **Sec. 3.** AS 16.40.100 is amended by adding a new subsection to read:

13 (f) If the wild stock of a shellfish species to be cultured at an aquatic farm site
14 exceeds the amount determined by the department to be an insignificant population
15 and if the commissioner determines in writing that removal from the site of that
16 portion of the stock that exceeds an insignificant population would benefit the public
17 and that removal of the stock by a person other than the permittee would unreasonably
18 interfere with the operation of the aquatic farm, the commissioner may authorize the
19 permittee to remove and sell the excess amount of the wild stock from the site, if the
20 permittee pays reasonable compensation, as defined by the department, to the
21 department for the harvest and sale of the excess wild stock. The department shall
22 deposit the money received under this subsection into the general fund. The
23 legislature may appropriate the money received under this section to the department
24 for shellfish management and enhancement.

25 * **Sec. 4.** AS 16.40.105 is amended to read:

26 **Sec. 16.40.105. Criteria for issuance of permits.** The commissioner shall
27 issue permits under AS 16.40.100 on the basis of the following criteria:

28 (1) the physical and biological characteristics of the proposed farm or
29 hatchery location must be suitable for the farming or the shellfish or aquatic plant
30 proposed;

31 (2) the proposed farm or hatchery may not require significant

1 alterations in traditional fisheries or other existing uses of fish and wildlife resources;

2 (3) the proposed farm or hatchery may not significantly affect
3 fisheries, wildlife, or their habitats in an adverse manner; [AND]

4 (4) the proposed farm or hatchery plans and staffing plans must
5 demonstrate technical and operational feasibility; and

6 (5) the proposed farm site may not include more than an
7 insignificant population of a wild stock, on the site, of a shellfish species intended
8 to be cultured.

9 * **Sec. 5.** AS 16.40 is amended by adding a new section to read:

10 **Sec. 16.40.155. Records and reports confidential.** Records required by
11 statute or by a regulation adopted by the department concerning aquatic farm stocks or
12 production, prices, and harvests of aquatic farm products and wild stocks, and annual
13 statistical reports of individual aquatic farms or hatcheries required by statute or by a
14 regulation adopted by the department are confidential and may not be released by the
15 department, except that the department may release the records and reports

16 (1) to the Department of Revenue and the Department of Natural
17 Resources to assist the departments in carrying out their respective statutory
18 responsibilities;

19 (2) as necessary to comply with a court order;

20 (3) provided by an aquatic farm or hatchery permit holder to the permit
21 holder whose activity is the subject of the records or reports;

22 (4) regarding cumulative annual harvests of wild stocks at individual
23 aquatic farm sites.

24 * **Sec. 6.** AS 16.40.199 is amended by adding a new paragraph to read:

25 (9) "insignificant population" means a population of shellfish that, in
26 the determination of the commissioner, would not attract and support a commercial
27 fishery for that species of shellfish and the harvest and sale of the shellfish would not
28 result in significant alteration in traditional fisheries or other existing uses of fish and
29 wildlife resources if the population were included within an aquatic farm site.

30 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 APPLICABILITY. Until expiration or termination of the permit, AS 16.40.105(5),
2 added by sec. 4 of this Act, does not apply to an aquatic farm permit issued under
3 AS 16.40.100 before the effective date of this Act.
4 * **Sec. 8.** This Act takes effect July 1, 2005.