

SB

5/4

SENATE COMMITTEE REPORT

FURTHER

DATE TURNED INTO OFFICE 5/6/88

1/28/88
Mr. President:

Finance Committee considered SB 514

relating to the farming of aquatic plants and shellfish; efd

and recommended

replace with CS 514 (Fin) same title
 or adopt CS new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact 50.0 SF

MEMBERS SIGNING DO PASS

[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS

[Signature] (No Rec)
[Signature] (No Rec)

[Signature] NO REC
Chairman signature and recommendation

Committee Backup attached

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSSB514 (Fin)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 5/6/88
Title: "An Act relating to the farming of aquatic plants..."
Sponsor: Rules Committee
Requestor: Finance Committee

Agency Affected: Office of the Governor
BRU: Executive Operations
Components: Executive Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL		30.0	15.0			
CONTRACTUAL		118.0	134.0	150.0	150.0	150.0
SUPPLIES		2.0	1.0			
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		150.0	150.0	150.0	150.0	150.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		150.0	150.0	150.0	150.0	150.0
FEDERAL FUNDS						
OTHER						
TOTAL		150.0	150.0	150.0	150.0	150.0

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Requested funding is for Alaska FinFish Farming Task Force activities in FY 89 and FY 90 (50.0) and to expedite mariculture permitting activities within impacted State agencies (100.0 in FY 89 and FY 90; 150.0 in remaining years)

Prepared by: Michael A. Nizich, Director *Man* Phone: 465-3616
Division: Division of Administrative Services Date: 5/6/88

Approved by Commissioner: [Signature] Date: 5/6/88
Agency: Office of the Governor

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Funds will be provided to the Departments of Natural Resources, Environmental Conservation and Fish and Game to assist in the implementation this bill.

The Department of Natural Resources will be responsible for issuing permits and leases for mariculture sites as well as the siting review process established in Section 15 of the bill.

The Department of Environmental Conservation will be responsible for implementing provisions contained in the bill relating to chemical usages, product wholesomeness, shellfish site certification and other duties. Fish and Game will be responsible for the permitting of farms, pathology and genetics inspections and regulating brood aquisition.

In addition funds will be used to established and support Alaska Finfish Farming Task Force establish in Section 21 of the bill.

Funds will be provided to the agencies for personal services and support services to discharge their respective duties.

5-2170L
Hein
5/6/88

Adopted
5/6/88

Original sponsor: Rules Committee

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 514 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the farming of aquatic plants and
7 shellfish; prohibiting the farming of Atlantic sal-
8 mon; extending the moratorium on finfish farming
9 until July 1, 1990; establishing the Alaska Finfish
10 Farming Task Force; and providing for an effective
11 date."

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

13 * Section 1. FINDINGS AND POLICY. (a) The legislature finds that

14 (1) aquatic farming in the state would

15 (A) provide a consistent source of quality food;

16 (B) provide new jobs;

17 (C) increase state exports;

18 (D) create new business opportunities; and

19 (E) increase the stability and diversity of the state's

20 economy; and

21 (2) development of aquatic farming in the state would increase
22 the availability of fresh seafood to Alaskans and would strengthen the
23 competitiveness of Alaska seafood in the world marketplace by broadening
24 the diversity of products and providing year-round supplies of premium
25 quality seafood.

26 (b) It is the policy of the state

27 (1) to encourage the establishment and responsible growth of an
28 aquatic farming industry in the state; and

29 (2) that allocation of aquatic farming sites be made with full

1 consideration of established and ongoing activities in an area.

2 * Sec. 2. AS 16.40 is amended by adding new sections to read:

3 ARTICLE 2. AQUATIC FARMING.

4 Sec. 16.40.100. AQUATIC FARM AND HATCHERY PERMITS. (a) A
5 person may not, without a permit from the commissioner, construct or
6 operate

7 (1) an aquatic farm; or

8 (2) a hatchery for the purpose of supplying aquatic plants
9 or shellfish to an aquatic farm.

10 (b) A permit issued under this section authorizes the permittee,
11 subject to the conditions of AS 03.05 and AS 16.40.100 - 16.40.199, to
12 acquire, purchase, offer to purchase, transfer, possess, sell, and
13 offer to sell stock and aquatic farm products that are used or reared
14 at the hatchery or aquatic farm. A person who holds a permit under
15 this section may sell or offer to sell shellfish stock to the depart-
16 ment or to an aquatic farm or related hatchery outside of the state.

17 (c) The commissioner may attach conditions to a permit issued
18 under this section that are necessary to protect natural fish and
19 wildlife resources.

20 (d) Notwithstanding other provisions of law, the commissioner
21 may not issue a permit under this section for the farming of, or
22 hatchery operations involving, Atlantic salmon.

23 Sec. 16.40.105. CRITERIA FOR ISSUANCE OF PERMITS. The commis-
24 sioner shall issue permits under AS 16.40.100 on the basis of the
25 following criteria:

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

29 (2) the proposed farm or hatchery may not require

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

3 (3) the proposed farm or hatchery may not significantly
4 affect fisheries, wildlife, or their habitats in an adverse manner;
5 and

6 (4) the proposed farm or hatchery plans and staffing plans
7 must demonstrate technical and operational feasibility.

8 Sec. 16.40.110. PERMIT APPLICATION, RENEWAL, AND TRANSFER. (a)
9 An applicant for an aquatic farming or hatchery permit required under
10 AS 16.40.100 shall apply on a form prescribed by the commissioner. An
11 application for a permit must include a plan for the development and
12 operation of the aquatic farm or hatchery, which must be approved by
13 the commissioner before the permit is issued.

14 (b) An application for renewal or transfer of a permit must be
15 accompanied by fees required by the commissioner, a report of the
16 disease history of the farm or hatchery covered by the permit, and
17 evidence that satisfies the commissioner that the applicant has com-
18 plied with the development plan required under (a) of this section.
19 The commissioner may require a health inspection of the farm or hatch-
20 ery as a condition of renewal. The department may conduct the in-
21 spection or contract with a disease diagnostician to conduct the
22 inspection.

23 (c) A person to whom a permit is transferred may use the permit
24 only for the purposes for which the permit was authorized to be used
25 by the transferor, and subject to the same conditions and limitations.

26 Sec. 16.40.120. AQUATIC STOCK ACQUISITION PERMITS. (a) A
27 person may not acquire aquatic plants or shellfish from wild stock in
28 the state for the purpose of supplying stock to an aquatic farm or
29 hatchery required to have a permit under AS 16.40.100 unless the

1 person holds an acquisition permit from the commissioner.

2 (b) An acquisition permit authorizes the permit holder to ac-
3 quire the species and quantities of wild stock in the state specified
4 in the permit for the purposes of supplying stock to

5 (1) an aquatic farm or hatchery required to have a permit
6 under AS 16.40.100;

7 (2) the department.

8 (c) The commissioner shall specify the expiration date of an
9 acquisition permit and may attach conditions to an acquisition permit,
10 including conditions relating to the time, place, and manner of har-
11 vest. Size, gear, place, time, licensing, and other limitations
12 applicable to sport, commercial, or subsistence harvest of aquatic
13 plants and shellfish do not apply to a harvest with a permit issued
14 under this section. The commissioner of fish and game shall issue or
15 deny a permit within 30 days after receiving an application.

16 (d) The commissioner shall deny or restrict a permit under this
17 section upon finding that the proposed harvest will impair sustained
18 yield of the species or will unreasonably disrupt established uses of
19 the resources by commercial, sport, personal use, or subsistence
20 users. The commissioner shall inform the Board of Fisheries of any
21 action taken on permit applications for species that support commer-
22 cial fisheries subject to limited entry under AS 16.43 and of any
23 permits denied because of unreasonable disruption of an established
24 use. A denial of the permit by the commissioner must contain the
25 factual basis for the findings.

26 (e) The Board of Fisheries may adopt regulations for the conser-
27 vation, maintenance, and management of species for which an acqui-
28 sition permit is required.

29 (f) Except as provided in (d) of this section or in a regulation

1 adopted under (e) of this section, the commissioner shall issue a
2 permit if

3 (1) wild stock is necessary to meet the initial needs of
4 farm or hatchery stock;

5 (2) there are technological limitations on the propagation
6 of cultured stock for the species sought;

7 (3) wild stock sought is not fully utilized by commercial,
8 sport, personal use, or subsistence fisheries; or

9 (4) wild stock is needed to maintain the gene pool of a
10 hatchery or aquatic farm.

11 (g) Aquatic plants and shellfish acquired under a permit issued
12 under this section become the property of the permit holder and are no
13 longer a public or common resource.

14 Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR SHELLFISH FOR
15 STOCK. A person may not import into the state an aquatic plant or
16 shellfish for the purpose of supplying stock to an aquatic farm or
17 hatchery unless authorized by a regulation of the Board of Fisheries.

18 Sec. 16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND
19 PRODUCTS. (a) A private hatchery required to have a permit under
20 AS 16.40.100 may sell or transfer stock from the hatchery only to an
21 aquatic farm or other hatchery that has a permit issued under AS 16.-
22 40.100, except that shellfish stock may also be sold or offered for
23 sale to an aquatic farm or related hatchery outside of the state.

24 (b) Stock may not be transferred to or from an aquatic farm or
25 hatchery required to have a permit under AS 16.40.100 without prior
26 notice of the transfer to the commissioner. A notice of transfer
27 shall be submitted at least 45 days before the proposed date of trans-
28 fer.

29 (c) A notice of transfer must be accompanied by a report of a

1 health inspection of the stock. The department shall conduct the
2 inspection or contract with a disease diagnostician to conduct the
3 inspection. The cost of inspection shall be borne by the department.

4 (d) The department may restrict or disapprove a transfer of
5 stock if it finds that the transfer would present a risk of spreading
6 disease.

7 (e) A person may not sell, transfer, or offer to sell or trans-
8 fer, or knowingly purchase or receive, an aquatic farm product grown
9 or propagated in the state unless the product was grown or propagated
10 on a farm with a permit issued under AS 16.40.100. The permit must be
11 in effect at the time of the sale, transfer, purchase, receipt, or
12 offer.

13 Sec. 16.40.150. DISEASE CONTROL AND INSPECTION. (a) The de-
14 partment shall order the quarantine or the destruction and disposal of
15 diseased hatchery stock or of aquatic farm products when necessary to
16 protect wild stock. A holder of a permit issued under AS 16.40.100
17 shall report to the department an outbreak or incidence of disease
18 among stock or aquatic farm products of the permit holder within 48
19 hours after discovering the outbreak or incidence.

20 (b) A holder of a permit issued under AS 16.40.100 shall allow
21 the department to inspect the permit holder's farm or hatchery during
22 operating hours and upon reasonable notice. The cost of inspection
23 shall be borne by the department.

24 (c) The department shall develop a disease management and con-
25 trol program for aquatic farms and hatcheries.

26 (d) The department may enter into an agreement with a state or
27 federal agency or a private, state-certified provider to provide ser-
28 vices under (b) and (c) of this section, or inspections under AS 16.-
29 40.110(b).

1 Sec. 16.40.160. REGULATIONS. The commissioner may adopt regu-
2 lations necessary to implement AS 16.40.100 - 16.40.199.

3 Sec. 16.40.170. PENALTY. A person who violates a provision of
4 AS 16.40.100 - 16.40.199, a regulation adopted under AS 16.40.100 -
5 16.40.199, or a term or condition of a permit issued under AS 16.40.-
6 100 - 16.40.199, is guilty of a class B misdemeanor.

7 Sec. 16.40.199. DEFINITIONS. In AS 16.40.100 - 16.40.199

8 (1) "aquatic farm" means a facility that grows, farms, or
9 cultivates aquatic farm products in captivity or under positive con-
10 trol;

11 (2) "aquatic farm product" means an aquatic plant or shell-
12 fish, or part of an aquatic plant or shellfish, that is propagated,
13 farmed, or cultivated in an aquatic farm and sold or offered for sale;

14 (3) "aquatic plant" means a plant indigenous to state water
15 or that is authorized to be imported into the state under a permit
16 issued by the commissioner;

17 (4) "commissioner" means the commissioner of fish and game;

18 (5) "hatchery" means a facility for the artificial propa-
19 gation of stock, including rearing of juvenile aquatic plants or
20 shellfish;

21 (6) "positive control" means, for mobile species, enclosed
22 within a natural or artificial escape-proof barrier; for species with
23 limited or no mobility, such as a bivalve or an aquatic plant, "posi-
24 tive control" also includes managed cultivation in unenclosed water;

25 (7) "shellfish" means a species of crustacean, mollusk, or
26 other invertebrate, in any stage of its life cycle, that is indigenous
27 to state water or that is authorized to be imported into the state
28 under a permit issued by the commissioner;

29 (8) "stock" means live aquatic plants or shellfish

1 acquired, collected, possessed, or intended for use by a hatchery or
2 aquatic farm for the purpose of further growth or propagation.

3 * Sec. 3. AS 03.05.011(a) is amended to read:

4 (a) To carry out the requirements of this title, the commis-
5 sioner of environmental conservation may issue orders, regulations,
6 permits, quarantines, and embargoes relating to

7 (1) examination and inspection of premises containing
8 products, articles, and commodities carrying pests;

9 (2) establishment of quarantines for eradication of pests;

10 (3) establishment of standards and labeling requirements
11 pertaining to the sale of meat, fish, and poultry;

12 (4) tests and analyses which may be made and hearings which
13 may be held to determine whether the commissioner will issue a stop
14 order or quarantine;

15 (5) cooperation with federal and other state agencies;

16 (6) regulation of fur farming; for purposes of this para-
17 graph, "fur farming" means the raising of and caring for animals for
18 the purpose of marketing their fur, or animals themselves for breeding
19 stock;

20 (7) examination and inspection of meat, fish, and poultry
21 advertised for sale or sold to the public;

22 (8) enforcement of quality assurance plans developed in
23 cooperation with appropriate industry representatives;

24 (9) establishment of standards and conditions for the
25 operation and siting of aquatic farms and related hatcheries, includ-
26 ing

27 (A) restrictions on the use of chemicals; and

28 (B) requirements to protect the public from contami-
29 nated aquatic farm products that pose a risk to health;

1 (10) monitoring aquatic farms and aquatic farm products to
2 ensure compliance with this chapter and with the requirements of the
3 national shellfish sanitation program manual of operations published
4 by the Food and Drug Administration.

5 * Sec. 4. AS 03.05.020(a) is amended to read:

6 (a) The commissioner shall

7 (1) require routine inspection of food animals, fish,
8 poultry and derivative food products, to protect the public against
9 fraud, disease and spoilage, and in this connection adopt uniform
10 regulations establishing standards of identity and composition of
11 these food products and minimum standards of sanitation and handling
12 methods as to all phases of slaughtering, processing, storing, trans-
13 porting, displaying and selling of these food products;

14 (2) issue orders or cause the orders to be issued by an
15 authorized veterinarian prohibiting transportation and sale of food
16 products intended for human consumption which do not meet the minimum
17 requirements established under (1) of this subsection, and limiting
18 their use and disposal in conformity with protection of the public;

19 (3) adopt a schedule of fees or charges, and credit pro-
20 visions, for services rendered by state veterinarians to farmers and
21 others at their request in caring for livestock and poultry, and all
22 the fees shall be transmitted to the commissioner for deposit in the
23 state treasury;

24 (4) designate points of entry for admission of livestock or
25 poultry into the state, and arrange inspection at those points with or
26 without collaboration and assistance of the federal government, and
27 bar entry of stock or poultry not shipped under a valid permit or not
28 free from contagious or infectious disease;

29 (5) adopt, repeal, and amend regulations consistent with

1 existing law for

2 (A) the labeling and grading of milk and milk products
3 and standards of cleanliness and sanitation, to at least the
4 minimum of current recommendations of the United States Public
5 Health Service, for the operation of dairies selling, or offering
6 for sale, milk or milk products;

7 (B) the production and sale of ice cream and allied
8 frozen desserts;

9 (C) the production and sale of imitation milk and
10 imitation milk products;

11 (D) the labeling of aquatic farm products as aquatic
12 farm products.

13 * Sec. 5. AS 03.05.040(a) is amended to read:

14 (a) On any business day during the usual hours of business the
15 commissioner or an authorized inspector may, for the purpose of in-
16 specting agricultural, [OR] fisheries, or aquatic farm products or
17 aquatic farm sites subject to regulation, enter a storehouse, ware-
18 house, cold storage plant, packing house, slaughterhouse, retail store
19 or other building or place where those products are kept, stored,
20 processed or sold.

21 * Sec. 6. AS 03.05.100 is amended to read:

22 Sec. 03.05.100. DEFINITIONS. In this chapter,

23 (1) "agricultural products" does not include fish or fish-
24 eries products;

25 (2) "aquatic farm" and "aquatic farm product" have the
26 meanings given in AS 16.40.199;

27 (3) "fish or fisheries products" means any aquatic animal,
28 including amphibians, or aquatic plants or parts of those plants,
29 animals or amphibians that are usable as human food.

1 * Sec. 7. AS 16.05.050 is amended by adding a new paragraph to read:

2 (17) to permit and regulate aquatic farming in the state in
3 a manner that ensures the protection of the state's fish and game
4 resources and improves the economy, health, and well-being of the
5 citizens of the state;

6 * Sec. 8. AS 16.05.251 is amended by adding a new subsection to read:

7 (f) Except as expressly provided in AS 16.40.120(d) and (e) and
8 16.40.130, the Board of Fisheries may not adopt regulations or take
9 action regarding the issuance, denial, or conditioning of a permit
10 under AS 16.40.100 or 16.40.120, the construction or operation of a
11 farm or hatchery required to have a permit under AS 16.40.100, or a
12 harvest with a permit issued under AS 16.40.120.

13 * Sec. 9. AS 16.05.930 is amended by adding a new subsection to read:

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

18 * Sec. 10. AS 16.05.940(14) is amended to read:

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

26 * Sec. 11. AS 16.10 is amended by adding a new section to read:

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

1 permit issued under AS 16.40.120.

2 * Sec. 12. AS 16.43.140 is amended by adding a new subsection to read:

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

5 * Sec. 13. AS 16.51.180(5) is amended to read:

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

10 * Sec. 14. AS 38.05 is amended by adding a new section to read:

11 Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES. (a)

12 The commissioner may offer to the public for lease a site that has
13 been developed for aquatic farming or related hatchery operations
14 under a permit issued under AS 38.05.856. Before offering the site to
15 the public, the commissioner shall offer the site to the permittee.

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

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

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

25 * Sec. 15. AS 38.05 is amended by adding new sections to read:

26 Sec. 38.05.855. IDENTIFICATION OF SITES FOR AQUATIC FARMS AND
27 HATCHERIES. (a) The commissioner shall identify districts in the
28 state within which sites may be selected for the establishment and
29 operation of aquatic farms and related hatcheries required to have a

1 permit under AS 16.40.100.

2 (b) The commissioner shall schedule a 60-day period during which
3 a person may submit an application that identifies a site in a dis-
4 trict for which the person wishes to be issued a permit under AS 38.-
5 05.856.

6 (c) Based on applications received under (b) of this section,
7 and after consultation with the commissioner of fish and game and the
8 commissioner of environmental conservation, the commissioner shall
9 make a preliminary written finding under AS 38.05.035(e) that proposes
10 sites in each district for which permits may be issued under AS 38.-
11 05.856.

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

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

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

27 (c) Before issuing or renewing a permit under this section, the
28 commissioner shall consider all relevant testimony submitted under
29 this section or AS 38.05.946(b). The commissioner may deny the

1 application for issuance or renewal for good cause, but shall provide
2 the applicant with written findings that explain the reason for the
3 denial.

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

8 (e) The commissioner shall adopt regulations establishing crite-
9 ria for the approval or denial of permits under this section and for
10 limiting the number of sites for which permits may be issued in an
11 area in order to protect the environment and natural resources of the
12 area. The regulations must provide for the consideration of upland
13 management policies and whether the proposed use of a site is compati-
14 ble with the traditional and existing uses of the area in which the
15 site is located.

16 * Sec. 16. AS 38.05.945(a) is amended to read:

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

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

22 (2) zoning of land under applicable law;

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

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

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

28 (6) a preliminary finding under AS 38.05.035(e) and 38.05.-
29 855(c) concerning sites for aquatic farms and related hatcheries.

* Sec. 17. 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. 18. 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. 19. 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. 14 and 15 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. 20. 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. 14 and 15 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;

1 (3) a discussion of the system the department implements for
2 issuing leases and tideland and land use permits;

3 (4) the level of public involvement in the issuance process; and

4 (5) a discussion of how the program is working, and the depart-
5 ment's plans for modifications of the program.

6 * Sec. 21. ALASKA FINFISH FARMING TASK FORCE. (a) The legislature
7 finds that the farming of finfish raises a series of socio-economic, bio-
8 logical, and environmental issues requiring an in-depth examination.

9 (b) The Alaska Finfish Farming Task Force is established to study the
10 issue and make a report of findings for administrative and legislative
11 consideration. The governor shall appoint a five-member task force com-
12 posed of state residents who are not state employees and who represent a
13 broad spectrum of expertise, including one representative of commercial
14 salmon fishermen, one aquatic farming advocate, one private economist, one
15 fisheries biologist, and one public member with no involvement in the
16 seafood or aquatic farming industry.

17 (c) The task force shall submit an interim report to the legislature
18 not later than January 30, 1989, and a final report to the legislature not
19 later than January 30, 1990. The reports must address finfish farming in
20 the state in freshwater, in marine environments, and in tanks or other
21 enclosed structures that contain marine water and that are located on land,
22 and shall address related hatchery operations. The reports may address
23 other issues the task force considers appropriate. The reports must
24 examine

25 (1) whether the farming of finfish can be conducted in a manner
26 that protects the health of the state's fishery resources;

27 (2) criteria for the siting of finfish farms to minimize land
28 use conflicts and to protect the environment;

29 (3) net economic costs and benefits of finfish farming in the

1 state to state residents, including jobs created or lost for state resi-
2 dents, tax revenue (assuming an appropriate tax rate), cost of state regu-
3 lation and monitoring, and effects on markets for salmon caught by the
4 state's commercial fishing fleets;

5 (4) the cost of providing adequate regulation of finfish farming
6 to protect wild stocks, the environment, public health, and existing bene-
7 ficial uses of the state's coastal water and land, and the role of the
8 private sector in providing pathological and other services;

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

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

16 * Sec. 22. Section 4, ch. 70, SLA 1987, is amended to read:

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

18 * Sec. 23. This Act takes effect immediately under AS 01.10.070(c).
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Original sponsor: Rules Committee

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 514 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the farming of aquatic plants and
7 shellfish; prohibiting the farming of Atlantic sal-
8 mon; extending the moratorium on finfish farming
9 until July 1, 1990; establishing the Alaska Finfish
10 Farming Task Force; and providing for an effective
11 date."

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

13 * Section 1. FINDINGS AND POLICY. (a) The legislature finds that

14 (1) aquatic farming in the state would

15 (A) provide a consistent source of quality food;

16 (B) provide new jobs;

17 (C) increase state exports;

18 (D) create new business opportunities; and

19 (E) increase the stability and diversity of the state's

20 economy; and

21 (2) development of aquatic farming in the state would increase
22 the availability of fresh seafood to Alaskans and would strengthen the
23 competitiveness of Alaska seafood in the world marketplace by broadening
24 the diversity of products and providing year-round supplies of premium
25 quality seafood.

26 (b) It is the policy of the state

27 (1) to encourage the establishment and responsible growth of an
28 aquatic farming industry in the state; and

29 (2) that allocation of aquatic farming sites be made with full

1 consideration of established and ongoing activities in an area.

2 * Sec. 2. AS 16.40 is amended by adding new sections to read:

3 ARTICLE 2. AQUATIC FARMING.

4 Sec. 16.40.100. AQUATIC FARM AND HATCHERY PERMITS. (a) A
5 person may not, without a permit from the commissioner, construct or
6 operate

7 (1) an aquatic farm; or

8 (2) a hatchery for the purpose of supplying aquatic plants
9 or shellfish to an aquatic farm.

10 (b) A permit issued under this section authorizes the permittee,
11 subject to the conditions of AS 03.05 and AS 16.40.100 - 16.40.199, to
12 acquire, purchase, offer to purchase, transfer, possess, sell, and
13 offer to sell stock and aquatic farm products that are used or reared
14 at the hatchery or aquatic farm. A person who holds a permit under
15 this section may sell or offer to sell shellfish stock to the depart-
16 ment or to an aquatic farm or related hatchery outside of the state.

17 (c) The commissioner may attach conditions to a permit issued
18 under this section that are necessary to protect natural fish and
19 wildlife resources.

20 (d) Notwithstanding other provisions of law, the commissioner
21 may not issue a permit under this section for the farming of, or
22 hatchery operations involving, Atlantic salmon.

23 Sec. 16.40.105. CRITERIA FOR ISSUANCE OF PERMITS. The commis-
24 sioner shall issue permits under AS 16.40.100 on the basis of the
25 following criteria:

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

29 (2) the proposed farm or hatchery may not require

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

3 (3) the proposed farm or hatchery may not significantly
4 affect fisheries, wildlife, or their habitats in an adverse manner;
5 and

6 (4) the proposed farm or hatchery plans and staffing plans
7 must demonstrate technical and operational feasibility.

8 Sec. 16.40.110. PERMIT APPLICATION, RENEWAL, AND TRANSFER. (a)
9 An applicant for an aquatic farming or hatchery permit required under
10 AS 16.40.100 shall apply on a form prescribed by the commissioner. An
11 application for a permit must include a plan for the development and
12 operation of the aquatic farm or hatchery, which must be approved by
13 the commissioner before the permit is issued.

14 (b) An application for renewal or transfer of a permit must be
15 accompanied by fees required by the commissioner, a report of the
16 disease history of the farm or hatchery covered by the permit, and
17 evidence that satisfies the commissioner that the applicant has com-
18 plied with the development plan required under (a) of this section.
19 The commissioner may require a health inspection of the farm or hatch-
20 ery as a condition of renewal. The department may conduct the in-
21 spection or contract with a disease diagnostician to conduct the
22 inspection.

23 (c) A person to whom a permit is transferred may use the permit
24 only for the purposes for which the permit was authorized to be used
25 by the transferor, and subject to the same conditions and limitations.

26 Sec. 16.40.120. AQUATIC STOCK ACQUISITION PERMITS. (a) A
27 person may not acquire aquatic plants or shellfish from wild stock in
28 the state for the purpose of supplying stock to an aquatic farm or
29 hatchery required to have a permit under AS 16.40.100 unless the

1 person holds an acquisition permit from the commissioner.

2 (b) An acquisition permit authorizes the permit holder to ac-
3 quire the species and quantities of wild stock in the state specified
4 in the permit for the purposes of supplying stock to

5 (1) an aquatic farm or hatchery required to have a permit
6 under AS 16.40.100;

7 (2) the department.

8 (c) The commissioner shall specify the expiration date of an
9 acquisition permit and may attach conditions to an acquisition permit,
10 including conditions relating to the time, place, and manner of har-
11 vest. Size, gear, place, time, licensing, and other limitations
12 applicable to sport, commercial, or subsistence harvest of aquatic
13 plants and shellfish do not apply to a harvest with a permit issued
14 under this section. The commissioner of fish and game shall issue or
15 deny a permit within 30 days after receiving an application.

16 (d) The commissioner shall deny or restrict a permit under this
17 section upon finding that the proposed harvest will impair sustained
18 yield of the species or will unreasonably disrupt established uses of
19 the resources by commercial, sport, personal use, or subsistence
20 users. The commissioner shall inform the Board of Fisheries of any
21 action taken on permit applications for species that support commer-
22 cial fisheries subject to limited entry under AS 16.43 and of any
23 permits denied because of unreasonable disruption of an established
24 use. A denial of the permit by the commissioner must contain the
25 factual basis for the findings.

26 (e) The Board of Fisheries may adopt regulations for the conser-
27 vation, maintenance, and management of species for which an acquisi-
28 tion permit is required.

29 (f) Except as provided in (d) of this section or in a regulation

1 adopted under (e) of this section, the commissioner shall issue a
2 permit if

3 (1) wild stock is necessary to meet the initial needs of
4 farm or hatchery stock;

5 (2) there are technological limitations on the propagation
6 of cultured stock for the species sought;

7 (3) wild stock sought is not fully utilized by commercial,
8 sport, personal use, or subsistence fisheries; or

9 (4) wild stock is needed to maintain the gene pool of a
10 hatchery or aquatic farm.

11 (g) Aquatic plants and shellfish acquired under a permit issued
12 under this section become the property of the permit holder and are no
13 longer a public or common resource.

14 Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR SHELLFISH FOR
15 STOCK. A person may not import into the state an aquatic plant or
16 shellfish for the purpose of supplying stock to an aquatic farm or
17 hatchery unless authorized by a regulation of the Board of Fisheries.

18 Sec. 16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND
19 PRODUCTS. (a) A private hatchery required to have a permit under
20 AS 16.40.100 may sell or transfer stock from the hatchery only to an
21 aquatic farm or other hatchery that has a permit issued under AS 16.-
22 40.100, except that shellfish stock may also be sold or offered for
23 sale to an aquatic farm or related hatchery outside of the state.

24 (b) Stock may not be transferred to or from an aquatic farm or
25 hatchery required to have a permit under AS 16.40.100 without prior
26 notice of the transfer to the commissioner. A notice of transfer
27 shall be submitted at least 45 days before the proposed date of trans-
28 fer.

29 (c) A notice of transfer must be accompanied by a report of a

1 health inspection of the stock. The department shall conduct the
2 inspection or contract with a disease diagnostician to conduct the
3 inspection. The cost of inspection shall be borne by the department.

4 (d) The department may restrict or disapprove a transfer of
5 stock if it finds that the transfer would present a risk of spreading
6 disease.

7 (e) A person may not sell, transfer, or offer to sell or trans-
8 fer, or knowingly purchase or receive, an aquatic farm product grown
9 or propagated in the state unless the product was grown or propagated
10 on a farm with a permit issued under AS 16.40.100. The permit must be
11 in effect at the time of the sale, transfer, purchase, receipt, or
12 offer.

13 Sec. 16.40.150. DISEASE CONTROL AND INSPECTION. (a) The de-
14 partment shall order the quarantine or the destruction and disposal of
15 diseased hatchery stock or of aquatic farm products when necessary to
16 protect wild stock. A holder of a permit issued under AS 16.40.100
17 shall report to the department an outbreak or incidence of disease
18 among stock or aquatic farm products of the permit holder within 48
19 hours after discovering the outbreak or incidence.

20 (b) A holder of a permit issued under AS 16.40.100 shall allow
21 the department to inspect the permit holder's farm or hatchery during
22 operating hours and upon reasonable notice. The cost of inspection
23 shall be borne by the department.

24 (c) The department shall develop a disease management and con-
25 trol program for aquatic farms and hatcheries.

26 (d) The department may enter into an agreement with a state or
27 federal agency or a private, state-certified provider to provide ser-
28 vices under (b) and (c) of this section, or inspections under AS 16.-
29 40.110(b).

1 Sec. 16.40.160. REGULATIONS. The commissioner may adopt regu-
2 lations necessary to implement AS 16.40.100 - 16.40.199.

3 Sec. 16.40.170. PENALTY. A person who violates a provision of
4 AS 16.40.100 - 16.40.199, a regulation adopted under AS 16.40.100 -
5 16.40.199, or a term or condition of a permit issued under AS 16.40.-
6 100 - 16.40.199, is guilty of a class B misdemeanor.

7 Sec. 16.40.199. DEFINITIONS. In AS 16.40.100 - 16.40.199

8 (1) "aquatic farm" means a facility that grows, farms, or
9 cultivates aquatic farm products in captivity or under positive con-
10 trol;

11 (2) "aquatic farm product" means an aquatic plant or shell-
12 fish, or part of an aquatic plant or shellfish, that is propagated,
13 farmed, or cultivated in an aquatic farm and sold or offered for sale;

14 (3) "aquatic plant" means a plant indigenous to state water
15 or that is authorized to be imported into the state under a permit
16 issued by the commissioner;

17 (4) "commissioner" means the commissioner of fish and game;

18 (5) "hatchery" means a facility for the artificial propa-
19 gation of stock, including rearing of juvenile aquatic plants or
20 shellfish;

21 (6) "positive control" means, for mobile species, enclosed
22 within a natural or artificial escape-proof barrier; for species with
23 limited or no mobility, such as a bivalve or an aquatic plant, "posi-
24 tive control" also includes managed cultivation in unenclosed water;

25 (7) "shellfish" means a species of crustacean, mollusk, or
26 other invertebrate, in any stage of its life cycle, that is indigenous
27 to state water or that is authorized to be imported into the state
28 under a permit issued by the commissioner;

29 (8) "stock" means live aquatic plants or shellfish

1 acquired, collected, possessed, or intended for use by a hatchery or
2 aquatic farm for the purpose of further growth or propagation.

3 * Sec. 3. AS 03.05.011(a) is amended to read:

4 (a) To carry out the requirements of this title, the commis-
5 sioner of environmental conservation may issue orders, regulations,
6 permits, quarantines, and embargoes relating to

7 (1) examination and inspection of premises containing
8 products, articles, and commodities carrying pests;

9 (2) establishment of quarantines for eradication of pests;

10 (3) establishment of standards and labeling requirements
11 pertaining to the sale of meat, fish, and poultry;

12 (4) tests and analyses which may be made and hearings which
13 may be held to determine whether the commissioner will issue a stop
14 order or quarantine;

15 (5) cooperation with federal and other state agencies;

16 (6) regulation of fur farming; for purposes of this para-
17 graph, "fur farming" means the raising of and caring for animals for
18 the purpose of marketing their fur, or animals themselves for breeding
19 stock;

20 (7) examination and inspection of meat, fish, and poultry
21 advertised for sale or sold to the public;

22 (8) enforcement of quality assurance plans developed in
23 cooperation with appropriate industry representatives;

24 (9) establishment of standards and conditions for the
25 operation and siting of aquatic farms and related hatcheries, includ-
26 ing

27 (A) restrictions on the use of chemicals; and

28 (B) requirements to protect the public from contami-
29 nated aquatic farm products that pose a risk to health;

1 (10) monitoring aquatic farms and aquatic farm products to
2 ensure compliance with this chapter and with the requirements of the
3 national shellfish sanitation program manual of operations published
4 by the Food and Drug Administration.

5 * Sec. 4. AS 03.05.020(a) is amended to read:

6 (a) The commissioner shall

7 (1) require routine inspection of food animals, fish,
8 poultry and derivative food products, to protect the public against
9 fraud, disease and spoilage, and in this connection adopt uniform
10 regulations establishing standards of identity and composition of
11 these food products and minimum standards of sanitation and handling
12 methods as to all phases of slaughtering, processing, storing, trans-
13 porting, displaying and selling of these food products;

14 (2) issue orders or cause the orders to be issued by an
15 authorized veterinarian prohibiting transportation and sale of food
16 products intended for human consumption which do not meet the minimum
17 requirements established under (1) of this subsection, and limiting
18 their use and disposal in conformity with protection of the public;

19 (3) adopt a schedule of fees or charges, and credit pro-
20 visions, for services rendered by state veterinarians to farmers and
21 others at their request in caring for livestock and poultry, and all
22 the fees shall be transmitted to the commissioner for deposit in the
23 state treasury;

24 (4) designate points of entry for admission of livestock or
25 poultry into the state, and arrange inspection at those points with or
26 without collaboration and assistance of the federal government, and
27 bar entry of stock or poultry not shipped under a valid permit or not
28 free from contagious or infectious disease;

29 (5) adopt, repeal, and amend regulations consistent with

1 existing law for

2 (A) the labeling and grading of milk and milk products
3 and standards of cleanliness and sanitation, to at least the
4 minimum of current recommendations of the United States Public
5 Health Service, for the operation of dairies selling, or offering
6 for sale, milk or milk products;

7 (B) the production and sale of ice cream and allied
8 frozen desserts;

9 (C) the production and sale of imitation milk and
10 imitation milk products;

11 (D) the labeling of aquatic farm products as aquatic
12 farm products.

13 * Sec. 5. AS 03.05.040(a) is amended to read:

14 (a) On any business day during the usual hours of business the
15 commissioner or an authorized inspector may, for the purpose of in-
16 specting agricultural, [OR] fisheries, or aquatic farm products or
17 aquatic farm sites subject to regulation, enter a storehouse, ware-
18 house, cold storage plant, packing house, slaughterhouse, retail store
19 or other building or place where those products are kept, stored,
20 processed or sold.

21 * Sec. 6. AS 03.05.100 is amended to read:

22 Sec. 03.05.100. DEFINITIONS. In this chapter,

23 (1) "agricultural products" does not include fish or fish-
24 eries products;

25 (2) "aquatic farm" and "aquatic farm product" have the
26 meanings given in AS 16.40.199;

27 (3) "fish or fisheries products" means any aquatic animal,
28 including amphibians, or aquatic plants or parts of those plants,
29 animals or amphibians that are usable as human food.

1 * Sec. 7. AS 16.05.050 is amended by adding a new paragraph to read:

2 (17) to permit and regulate aquatic farming in the state in
3 a manner that ensures the protection of the state's fish and game
4 resources and improves the economy, health, and well-being of the
5 citizens of the state;

6 * Sec. 8. AS 16.05.251 is amended by adding a new subsection to read:

7 (f) Except as expressly provided in AS 16.40.120(d) and (e) and
8 16.40.130, the Board of Fisheries may not adopt regulations or take
9 action regarding the issuance, denial, or conditioning of a permit
10 under AS 16.40.100 or 16.40.120, the construction or operation of a
11 farm or hatchery required to have a permit under AS 16.40.100, or a
12 harvest with a permit issued under AS 16.40.120.

13 * Sec. 9. AS 16.05.930 is amended by adding a new subsection to read:

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

18 * Sec. 10. AS 16.05.940(14) is amended to read:

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

26 * Sec. 11. AS 16.10 is amended by adding a new section to read:

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

1 permit issued under AS 16.40.120.

2 * Sec. 12. AS 16.43.140 is amended by adding a new subsection to read:

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

5 * Sec. 13. AS 16.51.180(5) is amended to read:

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

10 * Sec. 14. AS 38.05 is amended by adding a new section to read:

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

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

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

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

25 * Sec. 15. AS 38.05 is amended by adding new sections to read:

26 Sec. 38.05.855. IDENTIFICATION OF SITES FOR AQUATIC FARMS AND
27 HATCHERIES. (a) The commissioner shall identify districts in the
28 state within which sites may be selected for the establishment and
29 operation of aquatic farms and related hatcheries required to have a

permit under AS 16.40.100.

(b) The commissioner shall schedule a 60-day period 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 permits 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

1 application for issuance or renewal for good cause, but shall provide
2 the applicant with written findings that explain the reason for the
3 denial.

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

8 (e) The commissioner shall adopt regulations establishing crite-
9 ria for the approval or denial of permits under this section and for
10 limiting the number of sites for which permits may be issued in an
11 area in order to protect the environment and natural resources of the
12 area. The regulations must provide for the consideration of upland
13 management policies and whether the proposed use of a site is compati-
14 ble with the traditional and existing uses of the area in which the
15 site is located.

16 * Sec. 16. AS 38.05.945(a) is amended to read:

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

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

22 (2) zoning of land under applicable law;

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

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

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

28 (6) a preliminary finding under AS 38.05.035(e) and 38.05.-
29 855(c) concerning sites for aquatic farms and related hatcheries.

1 * Sec. 17. AS 38.05.945 is amended by adding a new subsection to read:

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

4 (1) regional fish and game councils established under
5 AS 16.05.260; and

6 (2) coastal resource service areas organized under AS 46.-
7 40.110 - 46.40.210.

8 * Sec. 18. AS 38.05.946 is amended by adding a new subsection to read:

9 (b) The commissioner shall hold a public hearing in each dis-
10 trict identified under AS 38.05.855 within 30 days after giving notice
11 of a preliminary finding under AS 38.05.035(e) and 38.05.855(c) con-
12 cerning sites for aquatic farms and related hatcheries.

13 * Sec. 19. Notwithstanding any other provisions of law, a person who is
14 lawfully operating an aquatic farm or related hatchery in the state on the
15 effective date of this Act is entitled to continue lawful operations at the
16 existing site. The person may obtain an initial lease or permit for the
17 person's existing operations under AS 38.05.083 or 38.05.856, enacted by
18 secs. 14 and 15 of this Act, but as a condition of obtaining the lease or
19 permit the person must agree that during the term of the lease or permit
20 the person will not change the use of the site.

21 * Sec. 20. LAND MANAGEMENT REPORT REQUIRED. The commissioner of natu-
22 ral resources shall submit to the legislature not later than January 30,
23 1989, a report detailing the department's implementation of AS 38.05.083
24 and 38.05.856, enacted by secs. 14 and 15 of this Act. The report must
25 include

26 (1) the number of applications received under AS 38.05.083 and
27 38.05.856, and the number of leases and permits issued, according to type
28 of aquatic farm product;

29 (2) the restrictions attached to permits and leases;

1 (3) a discussion of the system the department implements for
2 issuing leases and tideland and land use permits;

3 (4) the level of public involvement in the issuance process; and

4 (5) a discussion of how the program is working, and the depart-
5 ment's plans for modifications of the program.

6 * Sec. 21. ALASKA FINFISH FARMING TASK FORCE. (a) The legislature
7 finds that the farming of finfish raises a series of socio-economic, bio-
8 logical, and environmental issues requiring an in-depth examination.

9 (b) The Alaska Finfish Farming Task Force is established to study the
10 issue and make a report of findings for administrative and legislative
11 consideration. The governor shall appoint a five-member task force com-
12 posed of state residents who are not state employees and who represent a
13 broad spectrum of expertise, including one representative of commercial
14 salmon fishermen, one aquatic farming advocate, one private economist, one
15 fisheries biologist, and one public member with no involvement in the
16 seafood or aquatic farming industry.

17 (c) The task force shall submit an interim report to the legislature
18 not later than January 30, 1989, and a final report to the legislature not
19 later than January 30, 1990. The reports must address finfish farming in
20 the state in freshwater, in marine environments, and in tanks or other
21 enclosed structures that contain marine water and that are located on land,
22 and shall address related hatchery operations. The reports may address
23 other issues the task force considers appropriate. The reports must
24 examine

25 (1) whether the farming of finfish can be conducted in a manner
26 that protects the health of the state's fishery resources;

27 (2) criteria for the siting of finfish farms to minimize land
28 use conflicts and to protect the environment;

29 (3) net economic costs and benefits of finfish farming in the

1 state to state residents, including jobs created or lost for state resi-
2 dents, tax revenue (assuming an appropriate tax rate), cost of state regu-
3 lation and monitoring, and effects on markets for salmon caught by the
4 state's commercial fishing fleets;

5 (4) the cost of providing adequate regulation of finfish farming
6 to protect wild stocks, the environment, public health, and existing bene-
7 ficial uses of the state's coastal water and land, and the role of the
8 private sector in providing pathological and other services;

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

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

16 * Sec. 22. Section 4, ch. 70, SLA 1987, is amended to read:

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

18 * Sec. 23. This Act takes effect immediately under AS 01.10.070(c).
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FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to the farming of aquatic plants & shellfish
Sponsor: Rules
Requestor: Sen. Eliason

Agency Affected: Environmental Conservation
BRU: Environmental Health
Components: Seafood Industry
Palmer Laboratory

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	67.2	88.1	88.1	88.1	88.1
TRAVEL	0	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	0	7.0	8.5	8.5	8.5	8.5
SUPPLIES	0	3.0	13.0	13.0	13.0	13.0
EQUIPMENT	0	18.0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	110.2	124.6	124.6	124.6	124.6

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	110.2	124.6	124.6	124.6	124.6
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	110.2	124.6	124.6	124.6	124.6

POSITIONS:

FULL-TIME	0	1.0	2.0	2.0	2.0	2.0
PART-TIME	0	1.0	1.0	1.0	1.0	1.0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

Page one of two, plus attachment.

Prepared by: Douglas Donegan, Director
Division: Environmental Health

Phone: 465-2609
Date: 4/25/88

Approved by Commissioner: Dennis D. Kelso
Agency: Environmental Conservation

Date: 4/25/88

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

5/6/88

page ____ of ____

F2: W 1 ?
19 2 FNs

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB 514
PUBLISH DATE: SENATE 4/28/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to the farming of plants & shellfish
Sponsor: Rules
Requestor: Senator Eliason

Agency Affected: Environmental Conservation
BRU: Environmental Quality
Components: WOM, SERO, SCRO

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		74.7	74.7	99.6	99.6	99.6
TRAVEL		12.0	12.0	20.0	20.0	20.0
CONTRACTUAL		12.0	12.0	16.0	16.0	16.0
SUPPLIES		3.5	3.5	2.7	2.7	2.7
EQUIPMENT		2.0	2.0	1.5	1.5	1.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		104.2	104.2	139.8	139.8	139.8

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		104.2	104.2	139.8	139.8	139.8
FEDERAL FUNDS						
OTHER						
TOTAL		104.2	104.2	139.8	139.8	139.8

POSITIONS:

FULL-TIME				1.0	1.0	1.0
PART-TIME		3.0	3.0	2.0	2.0	2.0
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Page 2 of two, plus attachment

Prepared by: _____

Phone: _____

Division: _____

Date: 4/25/88

Approved by Commissioner: Dennis D. Kelso *a.d. Kelly*

Date: 4/25/88

Agency: Environmental Conservation

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SB 514 FISCAL NOTE ANALYSIS

The fiscal note includes funding for three functions at the Department of Environmental Conservation associated with development of mariculture projects. These are (1) regulation of sites and facilities to ensure that aquatic products are safe for human consumption; (2) testing of shellfish aquatic farm products for paralytic shellfish poisoning; (3) regulation of aquatic farm facilities to avoid unacceptable environmental impacts, particularly to water quality.

The two fiscal note forms break down costs by division. The first two functions identified above relate to the Division of Environmental Health. The third one is located within the Division of Environmental Quality.

This fiscal note relies upon the assumptions developed by the Interagency Working Group in aquatic farming for the numbers of facilities that would need to be permitted during the next several years. There are currently 50 permitted mariculture facilities in Alaska. The working group assumed that 75 new mariculture (non-salt water finfish) applications will be submitted within one year of passage of the legislation; 100 applications would be submitted the second year; 75 the third year; 75 the fourth year; and 60 the sixth year. It was further assumed that half of the applications would result in operating farms. These farms will need to be permitted and then monitored.

Division of Environmental Health

The Division of Environmental Health (DEH) will need one full time position in Sitka and one half time position in Juneau to develop regulations, monitor chemical use, provide technical assistance, collect samples for site certification, enforce labeling requirements and monitor levels of paralytic shellfish poison (PSP).

The Division will include examination for presence of heavy metals in its site certification process because of increasing concern over the propensity of shellfish to bioaccumulate heavy metals such as lead, mercury, cadmium, and arsenic. Several states, including Alaska, have initiated some testing of shellfish for heavy metals. The federal government may eventually require examination of sites for the presence of heavy metals as part of the National Shellfish Sanitation Program. DEH intends to incorporate this concern into its site certification process under the proposed legislation.

The Palmer laboratory will need 18.0 in non-recurring equipment funding to purchase a muffle furnace and a graphite furnace to conduct heavy metal analyses. Currently, the laboratory has limited ability to perform heavy metal analysis. The purchase of this equipment will allow the department to conduct heavy metals analysis without additional staff.

With the growth in the shellfish industry through the development of mariculture facilities comes a corresponding increase in the need for testing of shellfish for paralytic shellfish poisoning. Shellfish lots must be tested for PSP before they can be released into interstate commerce. The Department has a limited capacity to absorb additional testing. Beginning in FY 90, the fiscal note includes a part time environmental laboratory technician at the Palmer biological lab to handle the projected increase in the need for PSP testing. An additional \$10,000 would be necessary for the purchase of mice used in the analysis for PSP. These costs do not result solely from the passage of this bill, as the requirements for PSP testing are already in place, but funding is needed to accomplish the testing that is projected to be needed.

Division of Environmental Quality

The Division of Environmental Quality (DEQ) must review proposals for mariculture facilities to ensure that they comply with air, land, and water quality regulations. DEC is also required to certify whether projects will comply with water quality standards as part of the federal permitting process. These reviews are conducted in the DEQ's regional offices. Currently, one position in each region is largely responsible for reviewing more than 200 projects per year. (Current low staffing levels require that some projects not be reviewed.) The projected workload for mariculture facilities would require additional staff in these offices to handle the increased workload. Otherwise, these projects will not receive adequate review.

Mariculture facilities have the potential to cause water quality problems through the discharge of feces and chemicals. While the concern is much less than it would be for finfish facilities, an additional workload will be created. The Department requests one half-time position in the Southeast Region and one half-time position in the Southcentral Region to handle the permitting and monitoring of these facilities for the first two years after passage of the legislation. After the third year, the position in Southeast Alaska would become full time to accommodate the increasing workload.

In making this request, the Department assumes that the siting criteria to be developed by the Department of Natural Resources will provide for separation of mariculture facilities from sewage discharges and from sources of runoff that may contain high levels of fecal coliform bacteria. Consequently, we assume that it will not be necessary for DEC to determine the precise zone of

impact of large numbers of sewage discharges. If this is not the case, then additional resources will be needed.

The proposed new positions would review mariculture project applications, participate in the coordinated consistency review process, inspect sites as needed, propose conditions needed to prevent water pollution, and perform other needed duties. Travel funds are requested for visits to some of the projected sites.

The Water Quality Management component in Juneau coordinates the Department's involvement in programs such as mariculture from a policy perspective. Funding for a part-time position in this component is requested to participate in inter-agency discussions, particularly including the development of siting guidelines and planning to address use conflicts and to assist in drafting regulations and procedures. This position would also research the experiences of other states and provinces concerning mariculture.

Position Title Environmental Sanitarian II		No. of Positions	Range/Step 16A	Barg. Unit G
Time Status F	Staff Months 12	Location Sitka		Election District 3
Justification				
This position will develop regulations, monitor chemical use, provide technical assistance, collect samples for site certification, enforce labeling requirements and monitor levels of paralytic shellfish poison. The support funding will provide for an acceptable level of on-site inspections to insure product quality and safety.				
Type of Expenditure		Amount		
1	2	3		
Salary	33.6			
Benefits	11.2			
Premium Pay	-0-			
Other	-0-			
Total Personal Services		44.8		
Travel		10.0		
Contractual		3.5		
Commodities		1.5		
Equipment				
Other				
Total Cost		59.8		
Funding Source for Total Cost		-0-		
Federal Receipts	1002	-0-		
G. F. Match	1003	-0-		
General Fund	1004	59.8		
CF Program Receipts	1005	-0-		
Other		-0-		

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Health
 Component Seafood Industry

Page 1 of 1
 Revised Date

FY 89

Position Title Environmental Sanitarian II			No. of Positions 1	Range/Step 16A	Barg. Unit G	
Time Status P	Staff Months 6		Location Juneau		Election District 4	
Type of Expenditure			Justification			
			<p>This position will develop regulations, conduct plan reviews, provide technical assistance, conduct on-site inspections, and monitor product in transit for quality and wholesomeness. Support funding will provide for an acceptable level of on-site inspections and product quality monitoring.</p>			
1		2				3
Salary		16.8				
Benefits		5.6				
Premium Pay		-0-				
Other		-0-				
Total Personal Services						22.4
Travel						5.0
Contractual						3.5
Commodities						1.5
Equipment						-0-
Other						-0-
Total Cost						32.4
Funding Source for Total Cost						-0-
Federal Receipts 1002						-0-
G. F. Match 1003			-0-			
General Fund 1004			32.4			
GF Program Receipts 1005			-0-			
Other			-0-			

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Health
 Component Seafood Industry

Page 1 of 1
 Revised Date

FY 89

Position Title Environmental Laboratory Technician		No. of Positions 1	Range/Step 12A	Barg. Unit G
Time Status F	Staff Months 12	Location Palmer	Election District 16	
Type of Expenditure		Amount		
1	2	3		
Salary	15.0			
Benefits	4.4			
Premium Pay	1.5			
Other	-0-			
Total Personal Services		20.9		
Travel		-0-		
Contractual		1.5		
Commodities		10.0		
Equipment		18.0		
Other		-0-		
Total Cost		50.4		
Funding Source for Total Cost		-0-		
Federal Receipts	1002	-0-		
G. F. Match	1003	-0-		
General Fund	1004	50.4		
GF Program Receipts	1005	-0-		
Other		-0-		
Justification The increased workload for PSP testing will necessitate increasing PCN 7307 to permanent-full-time status in FY 90. This requested support funds will cover the increased cost for laboratory expendibles, and glassware involved in testing, communications and sample shipment and delivery. In FY 89, non-recurring equipment funds are needed to purchase a muffle furnace and a graphite furnace to conduct heavy metal analysis. At the present time, the Palmer Laboratory has limited ability to perform heavy metal analysis. The method in use is time-consuming and labor intensive. The purchase of this equipment will increase efficiency.				

**Request For
New Position**

Agency Environmental Conservation
BRU Environmental Health
Component Palmer Laboratory

Page 1 of 1
Revised Date _____

FY 89

Position Title Ecologist II		No. of Positions 1	Range/Step 18/8	Barg. Unit G
Time Status P	Staff Months 6	Location Juneau		Election District 4
Type of Expenditure		Amount		
1	2	3		
Salary	18.7			
Benefits	6.2			
Premium Pay				
Other				
Total Personal Services		24.9		
Travel		2.0		
Contractual		5.0		
Commodities		.5		
Equipment		1.0		
Other		---		
Total Cost		33.4		
Funding Source for Total Cost		---		
Federal Receipts 1002		---		
G. F. Match 1003		---		
General Fund 1004		33.4		
GF Program Receipts 1005		---		
Other		---		
Justification This position is responsible for coordinating Department involvement in new water-related programs, such as mariculture. This position will serve as a single point-of-contact for federal permitting (i.e. general permits from EPA likely), interagency review of mariculture project permits under CZM procedures, assistance in planning and siting functions, and assistance in drafting regulations in conjunction with DNR and ADF&G. This position will also research the experiences of other states and provinces concerning mariculture and assist in developing siting guidelines and criteria.				

**Request For
New Position**

Agency Environmental Conservation
BRU Environmental Quality
Component Water Quality Management

Page 3 of 3
Revised Date

FY 89

Position Title Ecologist II		No. of Positions 1	Range/Step 18/A	Barg. Unit G
Time Status P	Staff Months 6	Location Anchorage		Election District
Justification				
This position will review mariculture project applications, participate in consistency determinations, inspect sites during the permit process as needed, propose conditions needed to prevent water pollution at individual sites, inspect the mariculture facilities once they become operational, and follow-up on any monitoring required by permit conditions.				
Type of Expenditure		Amount		
1	2	3		
Salary	18.7			
Benefits	6.2			
Premium Pay				
Other				
Total Personal Services		24.9		
Travel		5.0		
Contractual		5.0		
Commodities		1.5		
Equipment		.0		
Other		--		
Total Cost		46.9		
Funding Source for Total Cost				
Federal Receipts 1002		--		
G. F. Match 1003		--		
General Fund 1004		46.9		
GF Program Receipts 1005		--		
Other		--		

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component SCRO

Page 2 of 3
 Revised Date

FY 89

Position Title Ecologist II		No. of Positions 1	Range/Step 18/A	Barg. Unit G																																			
Time Status F	Staff Months 12	Location Juneau		Election District 4																																			
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>Amount</th> </tr> <tr> <th>1</th> <th>2</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td>37.4</td> <td rowspan="4"></td> </tr> <tr> <td>Benefits</td> <td>12.4</td> </tr> <tr> <td>Premium Pay</td> <td></td> </tr> <tr> <td>Other</td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td>49.8</td> </tr> <tr> <td>Travel</td> <td></td> <td>5.0</td> </tr> <tr> <td>Contractual</td> <td></td> <td>5.0</td> </tr> <tr> <td>Commodities</td> <td></td> <td>1.5</td> </tr> <tr> <td>Equipment</td> <td></td> <td>0</td> </tr> <tr> <td>Other</td> <td></td> <td>--</td> </tr> <tr> <td>Total Cost</td> <td></td> <td>79.3</td> </tr> </tbody> </table>		Type of Expenditure	Amount	1	2	3	Salary	37.4		Benefits	12.4	Premium Pay		Other		Total Personal Services		49.8	Travel		5.0	Contractual		5.0	Commodities		1.5	Equipment		0	Other		--	Total Cost		79.3	Justification This position will review mariculture project applications, participate in consistency determinations, inspect sites during the permit process as needed, propose conditions needed to prevent water pollution at individual sites, inspect the mariculture facilities once they become operational, and follow-up on any monitoring required by permit conditions.		
Type of Expenditure	Amount																																						
1	2	3																																					
Salary	37.4																																						
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Other		--																																					

**Request For
New Position**

Agency Environmental Conservation
BRU Environmental Quality
Component SERO

Page 1 of 3
Revised Date

FY 89

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB 514
PUBLISH DATE: SENATE 4/28/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Act relating to the farming of
aquatic plants and shellfish
Sponsor: Rules Committee
Requestor: _____

Agency Affected: ADF&G
BRU: FRED

Components: Permitting and Technical
Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		138.3	183.3	234.6	227.3	227.3
TRAVEL		13.3	14.3	17.3	20.3	22.3
CONTRACTUAL		2.4	2.4	3.4	5.4	9.4
SUPPLIES		0.6	2.6	4.6	8.6	10.6
EQUIPMENT				1.0	2.0	5.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		154.6	202.6	260.9	263.6	274.6

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3	4	5	5	5
PART-TIME		2	2	2	2	2
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Attached

Prepared by: Robert D. Burkett
Division: FRED

Phone: 465-4160
Date: 4/26/88

Approved by Commissioner: *Concealment*
Agency: Department of Fish and Game

Date: 4/26/88

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

During the legislative interim, the Alaska Department of Fish and Game (ADF&G) Commissioner's Office has chaired a multi-agency work group, including the Departments of Natural Resources, Environmental Conservation, Commerce and Economic Development, and the Division of Governmental Coordination of the Governor's Office. Through work group interaction, ADF&G has more clearly defined technical and permitting responsibilities mandated by proposed mariculture legislation and in relation to those of other agencies. The ADF&G fiscal note reflects the most realistic and accurate analysis of the costs of these responsibilities that is possible at this time.

Establishing the shellfish mariculture permitting system has allowed for assessment of needs for permitting personnel. A range I6 research analyst position would perform the professional review function for permits. A Clerk V would provide system support, including computerized tracking, routine review closeout, letters of acknowledgement, accepting fees, and processing permits.

In the fiscal note for the previous mariculture legislation (87-88), the role of technical services was not clear. Lacking a clear sense of what tasks would be involved, no funding was identified. After a year of experience in dealing with farms and farmers and in studying the situation in other states and provinces, it is clear that the following are necessary:

1. A biologist/administrator in Juneau to serve as program leader. This position will deal with the public, other agencies, answer requests, and develop the program.
2. A biologist, under the program leader's direction, to assure biological and environmental suitability of proposed projects, and confirm that the potential farmer will be capable of operating the farm in a way that will realize benefit to the state while protecting natural stocks.
3. Technician time so that our local area biologists can be freed up to deal with projects out of the local offices. Area biologists will be the prime contact with real and potential farmers.

The pathology laboratory will need to add staff to handle the paperwork associated with stock transfers to provide disease screening of stocks involved with shellfish and plants, and to conduct site inspections and deliver fish health services to farmers. The additional staff would include a Clerk IV, a Microbiologist, and a Pathologist. These positions must be added quickly because passage of this bill will precipitate additional work immediately.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Aquatic Plants and Shellfish
Farming
Sponsor: Rules Committee
Requestor: Senator Eliason

Agency Affected: Natural Resources
BRU: Land and Water Management
Parks and Outdoor Recreation
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-	88.0	214.0	273.0	273.0	317.0
TRAVEL	-	5.0	7.0	9.0	9.0	10.0
CONTRACTUAL	-	5.0	7.0	9.0	9.0	10.0
SUPPLIES	-	1.0	2.0	3.0	3.0	4.0
EQUIPMENT	-	-	-	-	-	-
LAND & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	99.0	230.0	294.0	294.0	341.0

CAPITAL	-	-	-	-	-	-
---------	---	---	---	---	---	---

REVENUE	-	25.0	37.5	56.0	54.0	66.0
---------	---	------	------	------	------	------

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	99.0	230.0	294.0	294.0	341.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	99.0	230.0	294.0	294.0	341.0

POSITIONS:

FULL-TIME	-	2	3	4	4	5
PART-TIME	-	-	3	4	4	4
TEMPORARY	-	-	-	-	-	-

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Paula Burgess Phone: 465-3400
Division: Land and Water Management Date: 4/22/88

Approved by Commissioner: J. With Date: 4/25/88
Agency: Natural Resources

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

RECEIVED

APR 28 1988

LEGISLATIVE FINANCE

Position Title Natural Resource Officer II		No. of Positions 1	Range/Step 16	Barg. Unit GGU
Time Status Fulltime	Staff Months 12	Location Juneau		Election District
Justification				
The adjudicator would process all permit and lease applications that were received by the Southeast Regional Office in Juneau. We estimate some 25 to 30 applications may be received the first year. In order to complete site inspections and compliance reports, monies are included under Travel and Contractual. This source of funds would also be used to hold the public hearing. The Southeast Regional Office is responsible for the entire panhandle.				
Type of Expenditure		Amount		
1	2	3		
Salary	33.0			
Benefits	11.0			
Premium Pay				
Other				
Total Personal Services		44.0		
Travel		3.0		
Contractual		2.0		
Commodities				
Equipment				
Other				
Total Cost		49.0		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	49.0		
GF Program Receipts	1005			
Other				

**Request For
New Position**

Agency Natural Resources
 BRU Land and Water Management
 Component Land and Water Public Use

Page 2 of 6
 Revised Date 4/22/88

FY 89

Position Title Natural Resource Officer II		No. of Positions 1	Range/Step 16	Barg. Unit GGU	
Time Status Fulltime	Staff Months 12	Location Anchorage		Election District	
Type of Expenditure		Justification			
Amount		<p>The adjudicator would process all permit and lease applications that were received by the Southcentral Regional Office in Anchorage. We estimate so 25 to 30 applications may be received the first year. In order to complete site inspections and compliance reports, monies are included under Travel and Contractual. This Regional Office includes all of Prince William Sound, the Kodiak Island area, and the Aleutian Chain. Applications might be expected in any of these areas. This individual and this source of funds would also be used to hold public hearings.</p>			
1	2				3
Salary	33.0				
Benefits	11.0				
Premium Pay					
Other					
Total Personal Services					44.0
Travel					2.0
Contractual					3.0
Commodities					1.0
Equipment					
Other					
Total Cost		50.0			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	50.0			
GF Program Receipts	1005				
Other					

**Request For
New Position**

Agency Natural Resources
 BRU Land and Water Management
 Component Land and Water Public Use

Page 3 of 6
 Revised Date 4/22/88

FY 89

ANALYSIS
SB 514

The fiscal note for SB 514 is based on an estimate of the number of new applications for tideland leases and permits that we might expect to receive over the next five years. All state agencies have used the same base estimates for their fiscal notes. SB 514 does not allow farming of finfish, so we assume zero finfish applications. The estimates are an extrapolation of existing trends in shellfish applications, assuming continued progress in those industries, an assumption that progress will be made in the farming of scallops, and that some experimentation may begin in the farming of sea vegetables. The total number of new applications of all types we estimate to be:

1989	1990	1991	1992	1993
50	75	100	75	75

In addition to the processing of new applications, we must budget for monitoring the permits and leases that are granted. For this purpose, we are assuming an approximate 25 percent success rate of the new applications after the first two years. (For the first two years we assume that all of the applications require some form of monitoring.) Under these assumptions, we would expect to see some 55 "successful" mariculture farms at the end of five years. ("Success" is defined here as a farm that is actually growing something in the water. No assumption is made about marketing of the product.)

In order to process and monitor the permits and leases, the Division of Land and Water Management (DLWM) will need one adjudicator in the Southeast Region, and one adjudicator in the Southcentral Region in the first year. In the second year, DLWM will need one additional adjudicator to be located where the need is the greatest (depending upon which region receives most of the new applications). By the third year DLWM will need two adjudicators in each of the two regions. By the fifth year DLWM will need one additional adjudicator, again to be located where the need is the greatest. (For the purpose of preparing the fiscal note, one of the additional positions is assumed to be in the Southeast Region, and one in the Southcentral Region.)

By the second year DLWM will need one half-time contract administrator to handle the accumulation of two years of lease contracts, and one half-time surveyor in each region to review survey plats. We do not anticipate the need for contract administrators and surveyors to increase beyond these levels during the five year period covered by the fiscal note.

In order to avoid land speculation, it would be desirable to inspect permit and lease sites once a year. Some inspections can be combined with other field investigations, and some may be performed under cooperative agreements with other agencies. SB 514 also requires the Commissioner to hold a public hearing on each permit. A lean inspection program, plus the holding of public hearings, will cost the department \$5,000 for each adjudicator the first year (travel, contractual, and per diem).

The Division of Parks and Outdoor Recreation (DPOR) is responsible for adjudicating mariculture applications within park boundaries. DPOR anticipates receiving additional applications for mussel farming in Kachemak Bay over the next few years (11 permits have already been granted within the park on an experimental basis). By 1991 DPOR will need a seasonal position to process mariculture applications and to complete field inspections, as well as incidental marine supplies to operate the field equipment that currently exists.

Assuming a reasonable flat rate fee is set for the new permit, such as \$250 per acre per year (with a \$250 minimum), and assuming an average farm size of two acres, some \$25,000 in revenue might be generated the first year.

POSITION SUMMARY

Fiscal Year '89

Two (2) - Natural Resource Officers II (Range 16)

Fiscal Year '90

Three (3) - Natural Resource Officers II (Range 16)
One (1) - Half-time Contract Administrator (Range 14)
Two (2) - Half-time Surveyors (Range 20)

Fiscal Year '91

Four (4) - Natural Resource Officers II (Range 16)
One (1) - Half-time Contract Administrator (Range 14)
Two (2) - Half-time Surveyors (Range 20)
One (a) - Seasonal Park Ranger (Range 16)

Fiscal Year '92

Four (4) - Natural Resource Officers II (Range 16)
One (1) - Half-time Contract Administrator (Range 14)
Two (2) - Half-time Surveyors (Range 20)
One (a) - Seasonal Park Ranger (Range 16)

Fiscal Year '93

Five (5) - Natural Resource Officers II (Range 16)
One (1) - Half-time Contract Administrator (Range 14)
Two (2) - Half-time Surveyors (Range 20)
One (a) - Seasonal Park Ranger (Range 16)

CS FOR SENATE BILL 514 (Finance)

"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. No change from previous versions.

DEPARTMENT OF FISH AND GAME DUTIES

Section 2. 16.40.100. AQUATIC FARM AND HATCHERY PERMITS. Establishes a permit for an aquatic farm or for a hatchery that supplies aquatic plants or shellfish.

16.40.105. CRITERIA FOR ISSUANCE OF PERMITS. Establishes the criteria the commissioner of fish game shall use to issue permits.

16.40.110. PERMIT APPLICATION, RENEWAL, AND TRANSFER. Procedures for applying for a permit.

16.40.120. AQUATIC STOCK ACQUISITION PERMITS. Establishes a permit for acquiring aquatic stock. New language in (d) to better define the duties of the commissioner and the role of the board of fisheries. New language in (f) to reference regulations adopted by the board of fisheries.

16.40.130. IMPORTATION OF AQUATIC PLANTS OR AQUATIC ANIMALS FOR STOCK. Prohibition on importation unless authorized by the Board of Fisheries.

16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND PRODUCTS. Establishes procedures for sale and transfer of stock and products.

16.40.150. DISEASE CONTROL AND INSPECTION. Establishes procedures for disease control.

16.40.160. REGULATIONS. Grants commissioner the authority to adopt regulations to implement the new law.

16.40.170. PENALTY. The violation of this section is a class B misdemeanor.

16.40.199. DEFINITIONS.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION DUTIES

Section 3 03.05.011(a). DEC granted authority for aquatic farm regulation.

Section 4 03.05.020(a). Requires labeling of aquatic farm products.

- Section 5 03.05.040(a). Add aquatic farming reference to inspection duties.
- Section 6 03.05.100. DEFINITIONS. Adds reference to aquatic farm and aquatic farm products.

MISCELLANEOUS PROVISIONS

- Section 7 16.05.050. Grants the commissioner of fish and game the authority to regulate aquatic farming.
- Section 8 16.05.251. Limitation on the authority of the board of fisheries. Reference added to regulations adopted as part of the board's authority under Aquatic Stock Acquisition Permits. Except for the acquisition permits, the board will not be involved in the regulation of aquatic farming.
- Section 9 16.05.930. Exemption from provisions pertaining to hunting and fishing licenses, and commercial fishing licenses.
- Section 10 16.05.940(14). Amended to clarify that shellfish are not included in existing fish and game farming licenses. Shellfish are covered under the aquatic farm and hatchery permits.
- Section 11 16.10.269. Exemption from requirement that a seller of fish have a limited entry permit.
- Section 12 16.43.140. Exemption from limited entry permit requirement.
- Section 13 16.51.180(5). Exemption from the Alaska Seafood Marketing Institute.

DEPARTMENT OF NATURAL RESOURCES DUTIES

- Section 14 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES. Tidelands lease preference granted for existing permit holders. Other lease requirements.
- Section 15 38.05.855. IDENTIFICATION OF SITES FOR AQUATIC FARMS AND HATCHERIES. Establishes process for identifying districts and sites within those districts for aquatic farms. Allows for public comment on the selections.
- 38.05.856. TIDELAND AND LAND USE PERMITS FOR AQUATIC FARMING. Establishes tideland and land use permit for aquatic farms, and procedures for the issuance and renewal of permits.
- Section 16 38.05.945(a). Adds public notice requirements for Tideland Permits and Site Identification.
- Section 17 38.05.945. Requires notice of DNR findings and hearings be given to regional fish and game councils and coastal resource service areas.

- Section 18 38.05.946. Public hearing requirement for Identification of Sites.
- Section 19 Grandfather clause. Allows people who are already lawfully operating an aquatic farm or related hatchery to continue. People who have tidelands permits or leases must use the site for the same purpose during the term of the lease or permit.
- Section 20 LAND MANAGEMENT REPORT REQUIRED. Requires the commissioner of natural resources to submit a report to the legislature by Jan. 30, 1989, on the implementation and issuance of aquatic farming tidelands leases and permits.

NEW PROVISIONS

- Section 21 ALASKA FINFISH FARMING TASK FORCE. Establishes the Alaska Finfish Farming Task Force appointed by the governor to review and report on the issues surrounding finfish farming in Alaska. The task force shall submit an interim report to the legislature by Jan. 30, 1989, and a final report by Jan. 30, 1990.
- Section 22 Extension of the current moratorium on finfish farming in Alaska until July 1, 1990.
- Section 23 Immediate effective date.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

May 2, 1988

The Honorable Fred Zharoff
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

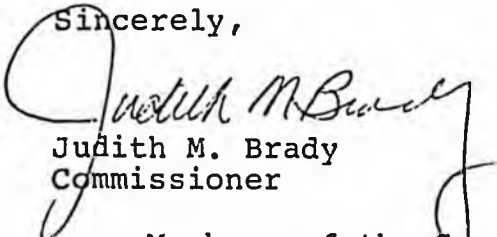
Dear Senator Zharoff:

I understand that the subject of land use regulations for mariculture activities continues to be an issue in the progress of SB 482 and SB 514. I believe that passage of a mariculture bill this session is extremely important to resolve some of the many pending policy questions surrounding the rearing of finfish and shellfish.

I support your position that districting, opening of application periods, and preparation of final written findings not appear in statute (specifically, Section 18, lines 5 through 24 in SB 514). Placing these provisions in statute restricts the department's ability to fine tune our system for processing applications if we find that it needs adjusting several years from now. Should either SB 482 or SB 514 pass this session without including this system in statute I do intend to propose the adoption of the system in regulation. It is essential that the public be aware of, and participate in the development of the rules that affect them.

As you are aware, this system for processing applications was proposed by the department. I would not oppose passage of a bill solely because it mandates this language in statute. I believe the need for the Legislature to settle the larger policy questions is greater than any constraints the department may encounter if the language were in statute. If I may be of further assistance to you, do not hesitate to contact me.

Sincerely,


Judith M. Brady
Commissioner

cc: Members of the Senate Finance Committee
Senator Richard Eliason
Rod Swope
Bob Evans
Richard LeFebvre

1 IN THE SENATE

BY THE RULES COMMITTEE

2

SENATE BILL NO. 514

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the farming of aquatic plants and
7 shellfish; and providing for an effective date."

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

9 * Section 1. FINDINGS AND POLICY. (a) The legislature finds that

10 (1) aquatic farming in the state would

11 (A) provide a consistent source of quality food;

12 (B) provide new jobs;

13 (C) increase state exports;

14 (D) create new business opportunities; and

15 (E) increase the stability and diversity of the state's
16 economy; and

17 (2) development of aquatic farming in the state would increase
18 the availability of fresh seafood to Alaskans and would strengthen the
19 competitiveness of Alaska seafood in the world marketplace by broadening
20 the diversity of products and providing year-round supplies of premium
21 quality seafood.

22 (b) It is the policy of the state

23 (1) to encourage the establishment and responsible growth of an
24 aquatic farming industry in the state; and

25 (2) that allocation of aquatic farming sites be made with full
26 consideration of established and ongoing activities in an area.

27 * Sec. 2. AS 16.40 is amended by adding new sections to read:

28 ARTICLE 2. AQUATIC FARMING.

29 Sec. 16.40.100. AQUATIC FARM AND HATCHERY PERMITS. (a) A

1 person may not, without a permit from the commissioner, construct or
2 operate

3 (1) an aquatic farm; or

4 (2) a hatchery for the purpose of supplying aquatic plants
5 or shellfish to an aquatic farm.

6 (b) A permit issued under this section authorizes the permittee,
7 subject to the conditions of AS 03.05 and AS 16.40.100 - 16.40.199, to
8 acquire, purchase, offer to purchase, transfer, possess, sell, and
9 offer to sell stock and aquatic farm products that are used or reared
10 at the hatchery or aquatic farm. A person who holds a permit under
11 this section may sell or offer to sell bivalve shellfish stock to the
12 department or to an aquatic farm or related hatchery outside of the
13 state.

14 (c) The commissioner may attach conditions to a permit issued
15 under this section that are necessary to protect natural fish and
16 wildlife resources.

17 Sec. 16.40.105. CRITERIA FOR ISSUANCE OF PERMITS. The commis-
18 sioner shall issue permits under AS 16.40.100 on the basis of the
19 following criteria:

20 (1) the physical and biological characteristics of the
21 proposed farm or hatchery location must be suitable for the farming of
22 the shellfish or aquatic plant proposed;

23 (2) the proposed farm or hatchery may not require signifi-
24 cant alterations in traditional fisheries or other existing uses of
25 fish and wildlife resources;

26 (3) the proposed farm or hatchery may not significantly
27 affect fisheries, wildlife, or their habitats in an adverse manner;
28 and

29 (4) the proposed farm or hatchery plans and staffing plans

1 must demonstrate technical and operational feasibility.

2 Sec. 16.40.110. PERMIT APPLICATION, RENEWAL, AND TRANSFER. (a)

3 An applicant for an aquatic farming or hatchery permit required under
4 AS 16.40.100 shall apply on a form prescribed by the commissioner. An
5 application for a permit must include a plan for the development and
6 operation of the aquatic farm or hatchery, which must be approved by
7 the commissioner before the permit is issued.

8 (b) An application for renewal or transfer of a permit must be
9 accompanied by fees required by the commissioner, a report of the
10 disease history of the farm or hatchery covered by the permit, and
11 evidence that satisfies the commissioner that the applicant has com-
12 plied with the development plan required under (a) of this section.
13 The commissioner may require a health inspection of the farm or
14 hatchery as a condition of renewal. The department may conduct the
15 inspection or contract with a disease diagnostician to conduct the
16 inspection.

17 (c) A person to whom a permit is transferred may use the permit
18 only for the purposes for which the permit was authorized to be used
19 by the transferor, and subject to the same conditions and limitations.

20 Sec. 16.40.120. AQUATIC STOCK ACQUISITION PERMITS. (a) A
21 person may not acquire aquatic plants or shellfish from wild stock in
22 the state for the purpose of supplying stock to an aquatic farm or
23 hatchery required to have a permit under AS 16.40.100 unless the
24 person holds an acquisition permit from the commissioner.

25 (b) An acquisition permit authorizes the permit holder to ac-
26 quire the species and quantities of wild stock in the state specified
27 in the permit for the purposes of supplying stock to

28 (1) an aquatic farm or hatchery required to have a permit
29 under AS 16.40.100;

1 (2) the department.

2 (c) The commissioner shall specify the expiration date of an
3 acquisition permit and may attach conditions to an acquisition permit,
4 including conditions relating to the time, place, and manner of har-
5 vest. Size, gear, place, time, licensing, and other limitations
6 applicable to sport, commercial, or subsistence harvest of aquatic
7 plants and shellfish do not apply to a harvest with a permit issued
8 under this section. The commissioner of fish and game shall issue or
9 deny a permit within 30 days after receiving an application.

10 (d) The commissioner shall deny or restrict a permit under this
11 section upon finding that the proposed harvest will impair sustained
12 yield of the species. The commissioner may deny or restrict a permit
13 under this section upon finding that the proposed harvest will un-
14 reasonably disrupt established uses of the resources by commercial,
15 sport, personal use, or subsistence users. The commissioner shall
16 forward to the Board of Fisheries for action permit applications for
17 species that support commercial fisheries subject to limited entry
18 under AS 16.43. A denial of the permit by the commissioner must
19 contain the factual basis for the findings.

20 (e) The Board of Fisheries may adopt regulations for the conser-
21 vation, maintenance, and management of species for which an acquisi-
22 tion permit is required.

23 (f) Except as provided in (d) of this section, the commissioner
24 shall issue a permit if

25 (1) wild stock is necessary to meet the initial needs of
26 farm or hatchery stock;

27 (2) there are technological limitations on the propagation
28 of cultured stock for the species sought;

29 (3) wild stock sought is not fully utilized by commercial,

1 sport, personal use, or subsistence fisheries; or

2 (4) wild stock is needed to maintain the gene pool of a
3 hatchery or aquatic farm.

4 (g) Aquatic plants and shellfish acquired under a permit issued
5 under this section become the property of the permit holder and are no
6 longer a public or common resource.

7 Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR AQUATIC ANIMALS
8 FOR STOCK. A person may not import into the state an aquatic plant or
9 shellfish for the purpose of supplying stock to an aquatic farm or
10 hatchery unless authorized by a regulation of the Board of Fisheries.

11 Sec. 16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND
12 PRODUCTS. (a) A private hatchery required to have a permit under
13 AS 16.40.100 may sell or transfer stock from the hatchery only to an
14 aquatic farm or other hatchery that has a permit issued under AS 16.-
15 40.100, except that bivalve shellfish stock may also be sold or
16 offered for sale to an aquatic farm or related hatchery outside of the
17 state.

18 (b) Stock may not be transferred to or from an aquatic farm or
19 hatchery required to have a permit under AS 16.40.100 without prior
20 notice of the transfer to the commissioner. A notice of transfer
21 shall be submitted at least 45 days before the proposed date of trans-
22 fer.

23 (c) A notice of transfer must be accompanied by a report of a
24 health inspection of the stock. The department shall conduct the
25 inspection or contract with a disease diagnostician to conduct the
26 inspection. The cost of inspection shall be borne by the department.

27 (d) The department may restrict or disapprove a transfer of
28 stock if it finds that the transfer would present a risk of spreading
29 disease.

1 (e) A person may not sell, transfer, or offer to sell or trans-
2 fer, or knowingly purchase or receive, an aquatic farm product grown
3 or propagated in the state unless the product was grown or propagated
4 on a farm with a permit issued under AS 16.40.100. The permit must be
5 in effect at the time of the sale, transfer, purchase, receipt, or
6 offer.

7 Sec. 16.40.150. DISEASE CONTROL AND INSPECTION. (a) The de-
8 partment shall order the quarantine or the destruction and disposal of
9 diseased hatchery stock or of aquatic farm products when necessary to
10 protect wild stock. A holder of a permit issued under AS 16.40.100
11 shall report to the department an outbreak or incidence of disease
12 among stock or aquatic farm products of the permit holder within 48
13 hours after discovering the outbreak or incidence.

14 (b) A holder of a permit issued under AS 16.40.100 shall allow
15 the department to inspect the permit holder's farm or hatchery during
16 operating hours and upon reasonable notice. The cost of inspection
17 shall be borne by the department.

18 (c) The department shall develop a disease management and con-
19 trol program for aquatic farms and hatcheries.

20 (d) The department may enter into an agreement with a state or
21 federal agency or a private, state-certified provider to provide ser-
22 vices under (b) and (c) of this section, or inspections under AS 16.-
23 40.110(b).

24 Sec. 16.40.160. REGULATIONS. The commissioner may adopt regu-
25 lations necessary to implement AS 16.40.100 - 16.40.199.

26 Sec. 16.40.170. PENALTY. A person who violates a provision of
27 AS 16.40.100 - 16.40.199, a regulation adopted under AS 16.40.100 -
28 16.40.199, or a term or condition of a permit issued under AS 16.40.-
29 100 - 16.40.199, is guilty of a class B misdemeanor.

1 Sec. 16.40.199. DEFINITIONS. In AS 16.40.100 - 16.40.199

2 (1) "aquatic farm" means a facility that grows, farms, or
3 cultivates aquatic farm products in captivity or under positive con-
4 trol;

5 (2) "aquatic farm product" means an aquatic plant or shell-
6 fish, or part of an aquatic plant or shellfish, that is propagated,
7 farmed, or cultivated in an aquatic farm and sold or offered for sale;

8 (3) "aquatic plant" means a plant indigenous to state water
9 or that is authorized to be imported into the state under a permit
10 issued by the commissioner;

11 (4) "commissioner" means the commissioner of fish and game;

12 (5) "hatchery" means a facility for the artificial propa-
13 gation of stock, including rearing of juvenile aquatic plants or
14 shellfish;

15 (6) "positive control" means, for mobile species, enclosed
16 within a natural or artificial escape-proof barrier; for species with
17 limited or no mobility, such as a bivalve or an aquatic plant, "posi-
18 tive control" also includes managed cultivation in unenclosed water;

19 (7) "shellfish" means a species of crustacean, mollusk, or
20 other invertebrate, in any stage of its life cycle, that is indigenous
21 to state water or that is authorized to be imported into the state
22 under a permit issued by the commissioner;

23 (8) "stock" means live aquatic plants or shellfish ac-
24 quired, collected, possessed, or intended for use by a hatchery or
25 aquatic farm for the purpose of further growth or propagation.

26 * Sec. 3. AS 03.05.011(a) is amended to read:

27 (a) To carry out the requirements of this title, the commis-
28 sioner of environmental conservation may issue orders, regulations,
29 permits, quarantines, and embargoes relating to

1 (1) examination and inspection of premises containing
2 products, articles, and commodities carrying pests;

3 (2) establishment of quarantines for eradication of pests;

4 (3) establishment of standards and labeling requirements
5 pertaining to the sale of meat, fish, and poultry;

6 (4) tests and analyses which may be made and hearings which
7 may be held to determine whether the commissioner will issue a stop
8 order or quarantine;

9 (5) cooperation with federal and other state agencies;

10 (6) regulation of fur farming; for purposes of this para-
11 graph, "fur farming" means the raising of and caring for animals for
12 the purpose of marketing their fur, or animals themselves for breeding
13 stock;

14 (7) examination and inspection of meat, fish, and poultry
15 advertised for sale or sold to the public;

16 (8) enforcement of quality assurance plans developed in
17 cooperation with appropriate industry representatives;

18 (9) establishment of standards and conditions for the
19 operation and siting of aquatic farms and related hatcheries, includ-
20 ing

21 (A) restrictions on the use of chemicals; and

22 (B) requirements to protect the public from contami-
23 nated aquatic farm products that pose a risk to health;

24 (10) monitoring aquatic farms and aquatic farm products to
25 ensure compliance with this chapter and with the requirements of the
26 national shellfish sanitation program manual of operations published
27 by the Food and Drug Administration.

28 * Sec. 4. AS 03.05.020(a) is amended to read:

29 (a) The commissioner shall

1 (1) require routine inspection of food animals, fish,
2 poultry and derivative food products, to protect the public against
3 fraud, disease and spoilage, and in this connection adopt uniform
4 regulations establishing standards of identity and composition of
5 these food products and minimum standards of sanitation and handling
6 methods as to all phases of slaughtering, processing, storing, trans-
7 porting, displaying and selling of these food products;

8 (2) issue orders or cause the orders to be issued by an
9 authorized veterinarian prohibiting transportation and sale of food
10 products intended for human consumption which do not meet the minimum
11 requirements established under (1) of this subsection, and limiting
12 their use and disposal in conformity with protection of the public;

13 (3) adopt a schedule of fees or charges, and credit pro-
14 visions, for services rendered by state veterinarians to farmers and
15 others at their request in caring for livestock and poultry, and all
16 the fees shall be transmitted to the commissioner for deposit in the
17 state treasury;

18 (4) designate points of entry for admission of livestock or
19 poultry into the state, and arrange inspection at those points with or
20 without collaboration and assistance of the federal government, and
21 bar entry of stock or poultry not shipped under a valid permit or not
22 free from contagious or infectious disease;

23 (5) adopt, repeal, and amend regulations consistent with
24 existing law for

25 (A) the labeling and grading of milk and milk products
26 and standards of cleanliness and sanitation, to at least the
27 minimum of current recommendations of the United States Public
28 Health Service, for the operation of dairies selling, or offering
29 for sale, milk or milk products;

1 (B) the production and sale of ice cream and allied
2 frozen desserts;

3 (C) the production and sale of imitation milk and
4 imitation milk products;

5 (D) the labeling of aquatic farm products as aquatic
6 farm products.

7 * Sec. 5. AS 03.05.040(a) is amended to read:

8 (a) On any business day during the usual hours of business the
9 commissioner or an authorized inspector may, for the purpose of in-
10 specting agricultural, [OR] fisheries, or aquatic farm products or
11 aquatic farm sites subject to regulation, enter a storehouse, ware-
12 house, cold storage plant, packing house, slaughterhouse, retail store
13 or other building or place where those products are kept, stored,
14 processed or sold.

15 * Sec. 6. AS 03.05.100 is amended to read:

16 Sec. 03.05.100. DEFINITIONS. In this chapter,

17 (1) "agricultural products" does not include fish or fish-
18 eries products;

19 (2) "aquatic farm" and "aquatic farm product" have the
20 meanings given in AS 16.40.199;

21 (3) "fish or fisheries products" means any aquatic animal,
22 including amphibians, or aquatic plants or parts of those plants,
23 animals or amphibians that are usable as human food.

24 * Sec. 7. AS 16.05.050 is amended by adding a new paragraph to read:

25 (17) to permit and regulate aquatic farming in the state in
26 a manner that ensures the protection of the state's fish and game
27 resources and improves the economy, health, and well-being of the
28 citizens of the state;

29 * Sec. 8. AS 16.05.251 is amended by adding a new subsection to read:

1 (f) Except as expressly provided in AS 16.40.120(d) and 16.40.-
2 130, the Board of Fisheries may not adopt regulations or take action
3 regarding the issuance, denial, or conditioning of a permit under
4 AS 16.40.100 or 16.40.120, the construction or operation of a farm or
5 hatchery required to have a permit under AS 16.40.100, or a harvest
6 with a permit issued under AS 16.40.120. Regulations or orders adopt-
7 ed by the Board of Fisheries under this section do not apply to a
8 harvest with a permit issued under AS 16.40.120.

9 * Sec. 9. AS 16.05.330(a) is amended to read:

10 (a) Except as otherwise permitted in this chapter, a person may
11 not engage in sport fishing, including the taking of razor clams; in
12 hunting, trapping, or fur dealing; in the farming of finfish [FISH],
13 fur, or game; or in taxidermy, without having the appropriate license
14 or tag in actual possession.

15 * Sec. 10. AS 16.05.340(a)(14) is amended to read:

16 (14) Finfish [FISH] farming biennial license2C0

17 * Sec. 11. AS 16.05.930 is amended by adding a new subsection to read:

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

22 * Sec. 12. AS 16.05.940(14) is amended to read:

23 (14) "finfish [FISH] or game farming" means the business of
24 propagating, breeding, raising, or producing finfish [FISH] or game in
25 captivity for the purpose of marketing the finfish [FISH] or game or
26 their products, and "captivity" means having the finfish [FISH] or
27 game under positive control, as in a pen, pond, or an area of land or
28 water that [WHICH] is completely enclosed by a generally escape-proof
29 barrier;

1 * Sec. 13. AS 16.10 is amended by adding a new section to read:

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

6 * Sec. 14. AS 16.10.400 is amended by adding a new subsection to read:

7 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
8 operation of a private hatchery that has a permit issued under AS 16.-
9 40.100.

10 * Sec. 15. AS 16.43.140 is amended by adding a new subsection to read:

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

13 * Sec. 16. AS 16.51.180(5) is amended to read:

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

18 * Sec. 17. AS 38.05 is amended by adding a new section to read:

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

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

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

29 (d) Before entering into a lease under this section, the

1 commissioner shall require the lessee to post a performance bond or
2 provide other security to cover the costs to the department of
3 restoring the leased site in the event the lessee abandons the site.

4 * Sec. 18. AS 38.05 is amended by adding new sections to read:

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

10 (b) The commissioner shall schedule a 60-day period during which
11 a person may submit an application that identifies a site in a dis-
12 trict for which the person wishes to be issued a permit under AS 38.-
13 05.856.

14 (c) Based on applications received under (b) of this section,
15 and after consultation with the commissioner of fish and game and the
16 commissioner of environmental conservation, the commissioner shall
17 make a preliminary written finding under AS 38.05.035(e) that proposes
18 sites in each district for which permits may be issued under AS 38.-
19 05.856.

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

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

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

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

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

16 (e) The commissioner shall adopt regulations establishing crite-
17 ria for the approval or denial of permits under this section and for
18 limiting the number of sites for which permits may be issued in an
19 area in order to protect the environment and natural resources of the
20 area. The regulations must provide for the consideration of upland
21 management policies and whether the proposed use of a site is compati-
22 ble with the traditional and existing uses of the area in which the
23 site is located.

24 * Sec. 19. AS 38.05.945(a) is amended to read:

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

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

- 1 (2) zoning of land under applicable law;
2 (3) a decision under AS 38.05.035(e) regarding the sale,
3 lease, or disposal of an interest in state land or resources; [AND]
4 (4) a competitive disposal of an interest in state land or
5 resources after final decision under AS 38.05.035(e);
6 (5) a public hearing under AS 38.05.856(b);
7 (6) a preliminary finding under AS 38.05.035(e) and 38.05.-
8 855(c) concerning sites for aquatic farms and related hatcheries.

9 * Sec. 20. AS 38.05.945 is amended by adding a new subsection to read:

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

12 (i) regional fish and game councils established under
13 AS 16.05.260; and

14 (2) coastal resource service areas organized under AS 46.-
15 40.110 - 46.40.210.

16 * Sec. 21. AS 38.05.946 is amended by adding a new subsection to read:

17 (b) The commissioner shall hold a public hearing in each dis-
18 trict identified under AS 38.05.855 within 30 days after giving notice
19 of a preliminary finding under AS 38.05.035(e) and 38.05.855(c) con-
20 cerning sites for aquatic farms and related hatcheries.

21 * Sec. 22. Notwithstanding any other provisions of law, a person who is
22 lawfully operating an aquatic farm or related hatchery in the state on the
23 effective date of this Act is entitled to continue lawful operations at the
24 existing site. The person may obtain an initial lease or permit for the
25 person's existing operations under AS 38.05.083 or 38.05.856, enacted by
26 secs. 17 and 18 of this Act, but as a condition of obtaining the lease or
27 permit the person must agree that during the term of the lease or permit
28 the person will not change the use of the site.

29 * Sec. 23. LAND MANAGEMENT REPORT REQUIRED. The commissioner of natu-

1 ral resources shall submit to the legislature not later than January 30,
2 1989, a report detailing the department's implementation of AS 38.05.083
3 and 38.05.856, enacted by secs. 17 and 18 of this Act. The report must
4 include

5 (1) the number of applications received under AS 38.05.083 and
6 38.05.856, and the number of leases and permits issued, according to type
7 of aquatic farm product;

8 (2) the restrictions attached to permits and leases;

9 (3) a discussion of the system the department implements for
10 issuing leases and tideland and land use permits;

11 (4) the level of public involvement in the issuance process; and

12 (5) a discussion of how the program is working, and the depart-
13 ment's plans for modifications of the program.

14 * Sec. 24. This Act takes effect immediately under AS 01.10.070(c).

