

ALASKA LEGISLATURE COMMITTEE FILES 1907-1908 00/2

5484 SRES SB 482 (file 2) - SB 483

1-56

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

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

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

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

10 (f) Except as expressly provided in AS 16.40.120(d) and 16.40.-
11 130, the Board of Fisheries may not adopt regulations or take action
12 regarding the issuance, denial, or conditioning of a permit under
13 AS 16.40.100 or 16.40.120, the construction or operation of a farm or
14 hatchery required to have a permit under AS 16.40.100, or a harvest
15 with a permit issued under AS 16.40.120. Regulations or orders adopt-
16 ed by the Board of Fisheries under this section do not apply to a
17 harvest with a permit issued under AS 16.40.120.

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

19 (a) Except as otherwise permitted in this chapter, a person may
20 not engage in sport fishing, including the taking of razor clams; in
21 hunting, trapping, or fur dealing; in the farming of [FISH,] fur [,]
22 or game; or in taxidermy, without having the appropriate license or
23 tag in actual possession.

24 * Sec. 10. AS 16.05.930 is amended by adding a new subsection to read:

25 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-
26 thorized by a permit issued under AS 16.40.100 or 16.40.120, or to a
27 person or vessel employed in an activity authorized by a permit issued
28 under AS 16.40.100 or 16.40.120.

29 * Sec. 11. AS 16.05.940(14) is amended to read:

1 (14) "[FISH OR] game farming" means the business of prop-
2 agating, breeding, raising, or producing [FISH OR] game in captivity
3 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-
4 ucts, and "captivity" means having the [FISH OR] game under positive
5 control, as in a pen [, POND,] or an area of land that [OR WATER
6 WHICH] is completely enclosed by a generally escape-proof barrier;

7 * Sec. 12. AS 16.10 is amended by adding a new section to read:

8 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
9 apply to the purchase or sale of aquatic farm products from a holder
10 of a permit issued under AS 16.40.100 or stock from a holder of a
11 permit issued under AS 16.40.120.

12 * Sec. 13. AS 16.10.400 is amended by adding a new subsection to read:

13 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
14 operation of a private hatchery that has a permit issued under AS 16.-
15 40.100.

16 * Sec. 14. AS 16.43.140 is amended by adding a new subsection to read:

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

19 * Sec. 15. AS 16.51.180(5) is amended to read:

20 (5) "seafood" means finfish, shellfish, and fish by-prod-
21 ucts, including but not limited to salmon, halibut, herring, flounder,
22 crab, clam, cod, shrimp, and pollock, but does not include aquatic
23 farm products as defined in AS 16.40.199:

24 * Sec. 16. AS 38.05 is amended by adding a new section to read:

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

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

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

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

10 * Sec. 17. AS 38.05 is amended by adding new sections to read:

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

16 (b) The commissioner shall schedule a 60-day period during which
17 a person may submit a preliminary application that identifies a site
18 in a district for which the person wishes to be issued a permit under
19 AS 38.05.856.

20 (c) Based on preliminary applications received under (b) of this
21 section, and after consultation with the commissioner of fish and game
22 and the commissioner of environmental conservation, the commissioner
23 shall make a preliminary written finding under AS 38.05.035(e) that
24 proposes sites in each district for which permits may be issued under
25 AS 38.05.856.

26 (d) After notice is given under AS 38.05.945 and a hearing is
27 held under AS 38.05.946(b), the commissioner shall issue a final
28 written finding under AS 38.05.035(e) that identifies sites in each
29 district for which permits shall be issued under AS 38.05.856 and that

1 specifies conditions and limitations for the development of each site.

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

7 (b) The commissioner may not issue a permit under this section
8 for tideland or land that borders a federally designated wilderness
9 area that was designated before the effective date of this Act.

10 (c) Before renewing a permit under this section, the commission-
11 er shall allow interested persons to submit written and oral testimony
12 concerning the renewal to the commissioner within 30 days after the
13 date of the notice. The commissioner shall hold a hearing to take
14 testimony.

15 (d) Before issuing or renewing a permit under this section, the
16 commissioner shall consider all relevant testimony submitted under
17 this section or AS 38.05.946(b). The commissioner may deny the appli-
18 cation for issuance or renewal for good cause, but shall provide the
19 applicant with written findings that explain the reason for the
20 denial.

21 (e) Before issuing or renewing a permit under this section, the
22 commissioner shall require the permittee to post a performance bond or
23 provide other security to cover the costs to the department of restor-
24 ing the permitted site in the event the permittee abandons the site.

25 (f) The commissioner shall adopt regulations establishing crite-
26 ria for the approval or denial of permits under this section and for
27 limiting the number of sites for which permits may be issued in an
28 area in order to protect the environment and natural resources of the
29 area. The regulations must provide for the consideration of upland

1 management policies and whether the proposed use of a site is compati-
2 ble with the traditional and existing uses of the area in which the
3 site is located.

4 * Sec. 18. AS 38.05.945(a) is amended to read:

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

7 (1) classification or reclassification of state land under
8 AS 38.05.300 and the closing of land to mineral leasing or entry under
9 AS 38.05.185;

10 (2) zoning of land under applicable law;

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

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

15 (5) a public hearing under AS 38.05.856(c);

16 (6) a preliminary finding under AS 38.05.035(e) and 38.05.-
17 855(c) concerning sites for aquatic farms and related hatcheries.

18 * Sec. 19. AS 38.05.945 is amended by adding a new subsection to read:

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

21 (1) regional fish and game councils established under
22 AS 16.05.260; and

23 (2) coastal resource service areas organized under AS 46.-
24 40.110 - 46.40.210.

25 * Sec. 20. AS 38.05.946 is amended by adding a new subsection to read:

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

1 * Sec. 21. AS 16.05.340(a)(14) is repealed.

2 * Sec. 22. Except as provided in sec. 24 of this Act, the commissioner
3 of fish and game may not issue a permit under AS 16.40.100 or 16.40.120,
4 enacted by sec. 2 of this Act, until regulations have been adopted under
5 AS 16.40.160, enacted by sec. 2 of this Act.

6 * Sec. 23. Except as provided in sec. 24 of this Act, the commissioner
7 of natural resources may not enter into a lease under AS 38.05.083 or issue
8 a permit under AS 38.05.856, enacted by secs. 16 and 17 of this Act, until
9 the commissioner adopts regulations necessary for the implementation of
10 AS 38.05.083 and 38.05.856.

11 * Sec. 24. Notwithstanding any other provisions of law, a person who is
12 lawfully operating an aquatic farm or related hatchery in the state on the
13 effective date of this Act is entitled to continue lawful operations at the
14 existing site. The person may obtain an initial lease or permit for the
15 person's existing operations under AS 38.05.083 or 38.05.856, enacted by
16 secs. 16 and 17 of this Act, but as a condition of obtaining the lease or
17 permit the person must agree that during the term of the lease or permit
18 the person will not change the use of the site.

19 * Sec. 25. This Act takes effect immediately under AS 01.10.070(c).
20
21
22
23
24
25
26
27
28
29

5-1806N ✓
Hein
3/28/88

Original sponsor: Resources Committee

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 482 (Resources)

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 aquatic animals; prohibiting the aquatic farming of
8 Pacific salmon in saltwater; and providing for an
9 effective date."

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

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

12 (1) aquatic farming in the state would

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

14 (B) provide new jobs;

15 (C) increase state exports;

16 (D) create new business opportunities; and

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

18 economy; and

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

24 (b) It is the policy of the state

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

27 (2) that allocation of aquatic farming sites must be compatible
28 with established and ongoing activities in an area.

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

CSSB 482(Res)

does this mean
tradition & activities have priority

ARTICLE 2. AQUATIC FARMING.

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

(1) an aquatic farm; or

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

(b) A permit issued under this section authorizes the permittee, subject to the conditions of AS 03.05 and AS 16.40.100 - 16.40.199, to acquire, purchase, offer to purchase, transfer, possess, sell, and offer to sell stock and aquatic farm products that are used or reared at the hatchery or aquatic farm. A hatchery that holds a permit under this section may sell or offer to sell bivalve shellfish spat ^{what about next growth cycle - like seed?} to an aquatic farm or related hatchery outside of the state. ^{-(what about char smolts) or kelp?}
^{- i.e. other life stages}

(c) The commissioner may attach conditions to a permit issued under this section that are necessary to protect the natural stock.

(d) Notwithstanding other provisions of law, the commissioner may not issue a permit under this section for the farming of, or hatchery operations involving, Pacific salmon in saltwater or Atlantic salmon. ^{(use scientific names) for clarity}

(e) The commissioner may issue a permit under this section for the freshwater farming of, or freshwater hatchery operations involving, finfish other than Atlantic salmon only in a privately owned freshwater body that has no outlet to a state-owned body of water. ^{does not allow saltwater tank farms}

Sec. 16.40.105. CRITERIA FOR ISSUANCE OF PERMITS. The commissioner shall issue permits under AS 16.40.100 on the basis of the following criteria:

*private land ?
-2- size limits*

1 (1) the physical and biological characteristics of the
2 proposed farm or hatchery location must be suitable for the farming of
3 the aquatic animal or aquatic plant proposed;

4 (2) the proposed farm may not unreasonably or adversely
5 affect management of natural stocks, and must not require ^{significant} alterations
6 in traditional fisheries or other existing uses of fish and wildlife
7 resources;

8 (3) the proposed farm may not affect fisheries, wildlife,
9 or their habitats in an adverse manner; and ^{how broad is this}

10 (4) the proposed farm plans and staffing plans must demon-
11 strate technical and operational feasibility.

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

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

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

1 Sec. 16.40.120. AQUATIC FARM STOCK ACQUISITION PERMITS. (a) A
2 person may not acquire aquatic plants or aquatic animals from wild
3 stock in the state for the purpose of supplying stock to an aquatic
4 farm or hatchery required to have a permit under AS 16.40.100 unless
5 the person holds an acquisition permit from the commissioner.

6 (b) An acquisition permit authorizes the permit holder to ac-
7 quire the species and quantities of wild stock in the state specified
8 in the permit for the purpose of supplying stock to an aquatic farm or
9 hatchery required to have a permit under AS 16.40.100.

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

18 (d) The commissioner shall deny or restrict a permit under this
19 section upon finding that the proposed harvest will impair sustained
20 yield of the species. The commissioner may deny or restrict a permit
21 under this section upon finding that the proposed harvest will disrupt
22 established uses of the resources by commercial, sport, personal use,
23 or subsistence users. The commissioner shall forward to the Board of
24 Fisheries for action permit applications for species that support
25 commercial fisheries subject to limited entry under AS 16.43. A
26 denial of the permit by the commissioner must contain the factual
27 basis for the findings.

28 (e) The Board of Fisheries may adopt regulations for the conser-
29 vation, maintenance, and management of species for which an

1 acquisition permit is required.

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

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

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

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

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

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

15 Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR AQUATIC ANIMALS
16 FOR STOCK. A person may not import into the state an aquatic plant or
17 aquatic animal for the purpose of supplying stock to an aquatic farm
18 or hatchery unless authorized by a regulation of the Board of Fisher-
19 ies. *or Comm. of Fish & Game*

20 Sec. 16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND
21 PRODUCTS. (a) A private hatchery required to have a permit under
22 AS 16.40.100 may sell or transfer stock from the hatchery only to an
23 aquatic farm or other hatchery that has a permit issued under AS 16.-
24 40.100.) *Except a*

25 (b) Stock may not be transferred to or from an aquatic farm or
26 hatchery required to have a permit under AS 16.40.100 without prior
27 notice of the transfer to the commissioner. A notice of transfer
28 shall be submitted at least ~~10~~⁴⁵ days before the proposed date of trans-
29 fer.

1 (c) A notice of transfer must be accompanied by a report of a
2 health inspection of the stock. The department shall conduct the
3 inspection or contract with a disease diagnostician to conduct the
4 inspection. The cost of inspection shall be borne by the department.

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

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

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

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

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

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

AS 16.40.110(b).

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

4 Sec. 16.40.170. PENALTY. A person who violates a provision of
5 AS 16.40.100 - 16.40.199, a regulation adopted under AS 16.40.100 -
6 16.40.199, or a term or condition of a permit issued under AS 16.40.-
7 100 - 16.40.199, is guilty of a class B misdemeanor.

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

9 (1) "aquatic animal" means shellfish or finfish;

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

13 (3) "aquatic farm product" means an aquatic plant or
14 aquatic animal, or part of an aquatic plant or aquatic animal, that is
15 propagated, farmed, or cultivated in an aquatic farm and sold or
16 offered for sale;

17 (4) "aquatic plant" means a plant indigenous to state water
18 or that is authorized to be imported into the state under a permit
19 issued by the commissioner;

20 (5) "commissioner" means the commissioner of fish and game;

21 (6) "hatchery" means a facility for the artificial propa-
22 gation of stock, including rearing of juvenile aquatic plants or
23 aquatic animals;

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

28 (8) "shellfish" means a species of crustacean, mollusk, or
29 other invertebrate, in any stage of its life cycle, that is indigenous

1 to state water or that is authorized to be imported into the state
2 under a permit issued by the commissioner;

3 (9) "stock" means live aquatic plants or aquatic animals
4 acquired, collected, possessed, or intended for use by a hatchery or
5 aquatic farm for the purpose of further growth or propagation.

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

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

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

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

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

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

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

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

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

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

27 (9) establishment of standards and conditions for the
28 operation and siting of aquatic farms and related hatcheries, includ-
29 ing

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

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

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

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

9 (a) The commissioner shall

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

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

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

27 (4) designate points of entry for admission of livestock or
28 poultry into the state, and arrange inspection at those points with or
29 without collaboration and assistance of the federal government, and

1 bar entry of stock or poultry not shipped under a valid permit or not
2 free from contagious or infectious disease;

3 (5) adopt, repeal, and amend regulations consistent with
4 existing law for

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

10 (B) the production and sale of ice cream and allied
11 frozen desserts;

12 (C) the production and sale of imitation milk and
13 imitation milk products;

14 (D) the labeling of aquatic farm products as aquatic
15 farm products.

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

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

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

25 Sec. 03.05.100. DEFINITIONS. In this chapter,

26 (1) "agricultural products" does not include fish or fish-
27 eries products;

28 (2) "aquatic farm" and "aquatic farm product" have the
29 meanings given in AS 15.40.199;

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

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

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

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

10 (f) Except as expressly provided in AS 16.40.120(d) and 16.40.-
11 130, the Board of Fisheries may not adopt regulations or take action
12 regarding the issuance, denial, or conditioning of a permit under
13 AS 16.40.100 or 16.40.120, the construction or operation of a farm or
14 hatchery required to have a permit under AS 16.40.100, or a harvest
15 with a permit issued under AS 16.40.120. Regulations or orders adopt-
16 ed by the Board of Fisheries under this section do not apply to a
17 harvest with a permit issued under AS 16.40.120.

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

19 (a) Except as otherwise permitted in this chapter, a person may
20 not engage in sport fishing, including the taking of razor clams; in
21 hunting, trapping, or fur dealing; in the farming of [FISH,] fur [,]
22 or game; or in taxidermy, without having the appropriate license or
23 tag in actual possession.

24 * Sec. 10. AS 16.05.930 is amended by adding a new subsection to read:

25 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-
26 thorized by a permit issued under AS 16.40.100 or 16.40.120, or to a
27 person or vessel employed in an activity authorized by a permit issued
28 under AS 16.40.100 or 16.40.120.

29 * Sec. 11. AS 16.05.940(14) is amended to read:

1 (14) "[FISH OR] game farming" means the business of prop-
2 agating, breeding, raising, or producing [FISH OR] game in captivity
3 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-
4 ucts, and "captivity" means having the [FISH OR] game under positive
5 control, as in a pen [, POND,] or an area of land that [OR WATER
6 WHICH] is completely enclosed by a generally escape-proof barrier;

7 * Sec. 12. AS 16.10 is amended by adding a new section to read:

8 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
9 apply to the purchase or sale of aquatic farm products from a holder
10 of a permit issued under AS 16.40.100 or stock from a holder of a
11 permit issued under AS 16.40.120.

12 * Sec. 13. AS 16.10.400 is amended by adding a new subsection to read:

13 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
14 operation of a private hatchery that has a permit issued under AS 16.-
15 40.100.

16 * Sec. 14. AS 16.43.140 is amended by adding a new subsection to read:

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

19 * Sec. 15. AS 16.51.180(5) is amended to read:

20 (5) "seafood" means finfish, shellfish, and fish by-prod-
21 ucts, including but not limited to salmon, halibut, herring, flounder,
22 crab, clam, cod, shrimp, and pollock, but does not include aquatic
23 farm products as defined in AS 16.40.199:

24 * Sec. 16. AS 38.05 is amended by adding a new section to read:

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

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

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

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

10 * Sec. 17. AS 38.05 is amended by adding new sections to read:

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

16 *400*
restrictive (b) The commissioner shall schedule a 60-day period during which
17 a person may submit a preliminary application that identifies a site
18 in a district for which the person wishes to be issued a permit under
19 AS 38.05.856. *30 day notice*

20 (c) Based on preliminary applications received under (b) of this
21 section, and after consultation with the commissioner of fish and game
22 and the commissioner of environmental conservation, the commissioner
23 shall make a preliminary written finding under AS 38.05.035(e) that
24 proposes sites in each district for which permits may be issued under
25 AS 38.05.856. *another 30 day notice*

26 (d) After notice is given under AS 38.05.945 and a hearing is
27 held under AS 38.05.946(b), the commissioner shall issue a final
28 written finding under AS 38.05.035(e) that identifies sites in each
29 district for which permits shall be issued under AS 38.05.856 and that

1 specifies conditions and limitations for the development of each site.

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

7 *bad* (b) The commissioner may not issue a permit under this section
8 for tideland or land that borders a federally designated wilderness
9 area that was designated before the effective date of this Act.

10 (c) Before renewing a permit under this section, the commission-
11 er shall allow interested persons to submit written and oral testimony
12 concerning the renewal to the commissioner within 30 days after the
13 date of the notice. The commissioner ^{may} ~~shall~~ hold a hearing to take
14 testimony.

15 (d) Before issuing or renewing a permit under this section, the
16 commissioner shall consider all relevant testimony submitted under
17 this section or AS 38.05.946(b). The commissioner may deny the appli-
18 cation for issuance or renewal for good cause, but shall provide the
19 applicant with written findings that explain the reason for the
20 denial.

21 (e) Before issuing or renewing a permit under this section, the
22 commissioner shall require the permittee to post a performance bond or
23 provide other security to cover the costs to the department of restor-
24 ing the permitted site in the event the permittee abandons the site.

25 (f) The commissioner shall adopt regulations establishing crite-
26 ria for the approval or denial of permits under this section and for
27 limiting the number of sites for which permits may be issued in an
28 area in order to protect the environment and natural resources of the
29 area. The regulations must provide for the consideration of upland

1 management policies and whether the proposed use of a site is compati-
 2 ble with the traditional and existing uses of the area in which the
 3 site is located.

4 * Sec. 18. AS 38.05.945(a) is amended to read:

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

7 (1) classification or reclassification of state land under
 8 AS 38.05.300 and the closing of land to mineral leasing or entry under
 9 AS 38.05.185;

10 (2) zoning of land under applicable law;

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

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

15 (5) a public hearing under AS 38.05.856(c);—

16 *best interest finding* (6) a preliminary finding under AS 38.05.035(e) and 38.05.-
 17 855(c) concerning sites for aquatic farms and related hatcheries.

18 * Sec. 19. AS 38.05.945 is amended by adding a new subsection to read:

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

21 (1) regional fish and game councils established under
 22 AS 16.05.260; and

23 (2) coastal resource service areas organized under AS 46.-
 24 40.110 - 46.40.210.

25 * Sec. 20. AS 38.05.946 is amended by adding a new subsection to read:

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

1 * Sec. 21. AS 16.05.340(a)(14) is repealed.

2 * Sec. 22. Except as provided in sec. 24 of this Act, the commissioner
3 of fish and game may not issue a permit under AS 16.40.100 or 16.40.120,
4 enacted by sec. 2 of this Act, until regulations have been adopted under
5 AS 16.40.160, enacted by sec. 2 of this Act.

6 * Sec. 23. Except as provided in sec. 24 of this Act, the commissioner
7 of natural resources may not enter into a lease under AS 38.05.083 or issue
8 a permit under AS 38.05.856, enacted by secs. 16 and 17 of this Act, until
9 the commissioner adopts regulations necessary for the implementation of
10 AS 38.05.083 and 38.05.856.

11 * Sec. 24. Notwithstanding any other provisions of law, a person who is
12 lawfully operating an aquatic farm or related hatchery in the state on the
13 effective date of this Act is entitled to continue lawful operations at the
14 existing site. The person may obtain an initial lease or permit for the
15 person's existing operations under AS 38.05.083 or 38.05.856, enacted by
16 secs. 16 and 17 of this Act, but as a condition of obtaining the lease or
17 permit the person must agree that during the term of the lease or permit
18 the person will not change the use of the site.

19 * Sec. 25. This Act takes effect immediately under AS 01.10.070(c).
20
21
22
23
24
25
26
27
28
29

Original sponsor: Resources Committee

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 482 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL *if Arliss moratorium*
does not pass only

6 For an Act entitled: "An Act relating to the farming of aquatic plants and
7 aquatic animals; prohibiting the aquatic farming of
8 Pacific salmon in saltwater; and providing for an
9 effective date."

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

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

12 (1) aquatic farming in the state would

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

14 (B) provide new jobs;

15 (C) increase state exports;

16 (D) create new business opportunities; and

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

18 economy; and

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

24 (b) It is the policy of the state

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

27 *F.Z* (2) that allocation of aquatic farming sites ~~must be~~ *in*
28 ~~with established and ongoing activities in an area.~~ *BE MADE with Full Consideration*

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

⑦ JACK C.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

ARTICLE 2. AQUATIC FARMING.

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

(1) an aquatic farm; or

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

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

(c) The commissioner may attach conditions to a permit issued under this section that are necessary to protect the natural stock.

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

(e) The commissioner may issue a permit under this section for the freshwater farming of, or freshwater hatchery operations involving, finfish other than Atlantic salmon only in a privately owned freshwater body that has no outlet to ^{state} ~~a state-owned body of~~ water.

Sec. 16.40.105. CRITERIA FOR ISSUANCE OF PERMITS. The commissioner shall issue permits under AS 16.40.100 on the basis of the following criteria:

1 (1) the physical and biological characteristics of the
2 proposed farm or hatchery location must be suitable for the farming of
3 the aquatic animal or aquatic plant proposed;

4 (2) the proposed farm may not unreasonably ~~adversely~~
5 affect management of natural stocks, and must not require ^{Significantly} alterations
6 in traditional fisheries or other existing uses of fish and wildlife
7 resources;

8 FZ (3) the proposed farm may not ^{Significantly} affect fisheries, wildlife,
9 or their habitats in an adverse manner; and

10 (4) the proposed farm plans and staffing plans must demon-
11 strate technical and operational feasibility.

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

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

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

1 Sec. 16.40.120. AQUATIC FARM STOCK ACQUISITION PERMITS. (a) A
2 person may not acquire aquatic plants or aquatic animals from wild
3 stock in the state for the purpose of supplying stock to an aquatic
4 farm or hatchery required to have a permit under AS 16.40.100 unless
5 the person holds an acquisition permit from the commissioner.

6 (b) An acquisition permit authorizes the permit holder to ac-
7 quire the species and quantities of wild stock in the state specified
8 in the permit for the purpose of supplying stock to an aquatic farm or
9 hatchery required to have a permit under AS 16.40.100, ^{The Dept of Fish & Game} or ~~Some~~ ^{out of STATE.}

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

18 (d) The commissioner shall deny or restrict a permit under this
19 section upon finding that the proposed harvest will impair sustained
20 yield of the species. The commissioner may deny or restrict a permit
21 under this section upon finding that the proposed harvest will ^{UNREASONABLY} ~~disrupt~~ ^{substantially}
22 established uses of the resources by commercial, sport, personal use,
23 or subsistence users. The commissioner shall forward to the Board of
24 Fisheries for action permit applications for species that support
25 commercial fisheries subject to limited entry under AS 16.43. A
26 denial of the permit by the commissioner must contain the factual
27 basis for the findings.

28 (e) The Board of Fisheries may adopt regulations for the conser-
29 vation, maintenance, and management of species for which an

1 acquisition permit is required.

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

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

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

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

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

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

15 Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR AQUATIC ANIMALS
16 FOR STOCK. A person may not import into the state an aquatic plant or
17 aquatic animal for the purpose of supplying stock to an aquatic farm
18 or hatchery unless authorized by a regulation of the Board of Fisher-
19 ies.

20 Sec. 16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND
21 PRODUCTS. (a) A private hatchery required to have a permit under
22 AS 16.40.100 may sell or transfer stock from the hatchery only to an
23 aquatic farm or other hatchery that has a permit issued under AS 16.-
24 40.100. ^X except that bi-valve shellfish spat may also be sold or offered
for sale to an aquatic farm or related hatchery outside of the state.
25 (b) Stock may not be transferred to or from an aquatic farm or
26 hatchery required to have a permit under AS 16.40.100 without prior
27 notice of the transfer to the commissioner. A notice of transfer
28 shall be submitted at least ⁴⁵ ~~30~~ days before the proposed date of trans-
fer.

1 (c) A notice of transfer must be accompanied by a report of a
2 health inspection of the stock. The department shall conduct the
3 inspection or contract with a disease diagnostician to conduct the
4 inspection. The cost of inspection shall be borne by the department.

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

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

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

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

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

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

AS 16.40.110(b).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Sec. 16.40.160. REGULATIONS. The commissioner may adopt regulations necessary to implement AS 16.40.100 - 16.40.199.

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

Sec. 16.40.199. DEFINITIONS. In AS 16.40.100 - 16.40.199

(1) "aquatic animal" means shellfish or finfish;

(2) "aquatic farm" means a facility that grows, farms, or cultivates aquatic farm products in captivity or under positive control;

(3) "aquatic farm product" means an aquatic plant or aquatic animal, or part of an aquatic plant or aquatic animal, that is propagated, farmed, or cultivated in an aquatic farm and sold or offered for sale;

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

(5) "commissioner" means the commissioner of fish and game;

(6) "hatchery" means a facility for the artificial propagation of stock, including rearing of juvenile aquatic plants or aquatic animals;

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

(8) "shellfish" means a species of crustacean, mollusk, or other invertebrate, in any stage of its life cycle, that is indigenous

1 to state water or that is authorized to be imported into the state
2 under a permit issued by the commissioner;

3 (9) "stock" means live aquatic plants or aquatic animals
4 acquired, collected, possessed, or intended for use by a hatchery or
5 aquatic farm for the purpose of further growth or propagation.

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

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

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

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

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

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

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

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

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

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

27 (9) establishment of standards and conditions for the
28 operation and siting of aquatic farms and related hatcheries, includ-
29 ing

1 (A) restrictions on the use of chemicals; and
2 (B) requirements to protect the public from contami-
3 nated aquatic farm products that pose a risk to health;

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

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

9 (a) The commissioner shall

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

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

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

27 (4) designate points of entry for admission of livestock or
28 poultry into the state, and arrange inspection at those points with or
29 without collaboration and assistance of the federal government, and

1 bar entry of stock or poultry not shipped under a valid permit or not
2 free from contagious or infectious disease;

3 (5) adopt, repeal, and amend regulations consistent with
4 existing law for

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

10 (B) the production and sale of ice cream and allied
11 frozen desserts;

12 (C) the production and sale of imitation milk and
13 imitation milk products;

14 (D) the labeling of aquatic farm products as aquatic
15 farm products.

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

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

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

25 Sec. 03.05.100. DEFINITIONS. In this chapter,

26 (1) "agricultural products" does not include fish or fish-
27 eries products;

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

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

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

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

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

10 (f) Except as expressly provided in AS 16.40.120(d) and 16.40.-
11 130, the Board of Fisheries may not adopt regulations or take action
12 regarding the issuance, denial, or conditioning of a permit under
13 AS 16.40.100 or 16.40.120, the construction or operation of a farm or
14 hatchery required to have a permit under AS 16.40.100, or a harvest
15 with a permit issued under AS 16.40.120. Regulations or orders adopt-
16 ed by the Board of Fisheries under this section do not apply to a
17 harvest with a permit issued under AS 16.40.120.

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

19 (a) Except as otherwise permitted in this chapter, a person may
20 not engage in sport fishing, including the taking of razor clams; in
21 hunting, trapping, or fur dealing; in the farming of [FISH,] fur [,]
22 or game; or in taxidermy, without having the appropriate license or
23 tag in actual possession.

24 * Sec. 10. AS 16.05.930 is amended by adding a new subsection to read:

25 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-
26 thorized by a permit issued under AS 16.40.100 or 16.40.120, or to a
27 person or vessel employed in an activity authorized by a permit issued
28 under AS 16.40.100 or 16.40.120.

29 * Sec. 11. AS 16.05.940(14) is amended to read:

1 (14) "[FISH OR] game farming" means the business of prop-
2 agating, breeding, raising, or producing [FISH OR] game in captivity
3 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-
4 ucts, and "captivity" means having the [FISH OR] game under positive
5 control, as in a pen [, POND,] or an area of land that [OR WATER
6 WHICH] is completely enclosed by a generally escape-proof barrier;

7 * Sec. 12. AS 16.10 is amended by adding a new section to read:

8 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
9 apply to the purchase or sale of aquatic farm products from a holder
10 of a permit issued under AS 16.40.100 or stock from a holder of a
11 permit issued under AS 16.40.120.

12 * Sec. 13. AS 16.10.400 is amended by adding a new subsection to read:

13 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
14 operation of a private hatchery that has a permit issued under AS 16.-
15 40.100.

16 * Sec. 14. AS 16.43.140 is amended by adding a new subsection to read:

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

19 * Sec. 15. AS 16.51.180(5) is amended to read:

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

24 * Sec. 16. AS 38.05 is amended by adding a new section to read:

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

712

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

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

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

10 * Sec. 17. AS 38.05 is amended by adding new sections to read:

11 Jack
12 Sec. 38.05.855. IDENTIFICATION OF SITES FOR AQUATIC FARMS AND
13 HATCHERIES. (a) The commissioner shall identify districts in the
14 state within which sites may be selected for the establishment and
15 operation of aquatic farms and related hatcheries required to have a
16 permit under AS 16.40.100.

17 (b) The commissioner shall schedule a 60-day period during which
18 a person may submit a ~~preliminary~~ application that identifies a site
19 in a district for which the person wishes to be issued a permit under
20 AS 38.05.856.

21 (c) Based on ~~preliminary~~ applications received under (b) of this
22 section, and after consultation with the commissioner of fish and game
23 and the commissioner of environmental conservation, the commissioner
24 shall make a preliminary written finding under AS 38.05.035(e) that
25 proposes sites in each district for which permits may be issued under
26 AS 38.05.856.

27 (d) After notice is given under AS 38.05.945 and a hearing is
28 held under AS 38.05.946(b), the commissioner shall issue a final
29 written finding under AS 38.05.035(e) that identifies sites in each
30 district for which permits shall be issued under AS 38.05.856 and that

1 specifies conditions and limitations for the development of each site.

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

7 (b) The commissioner may not issue a permit under this section
8 for tideland or land that borders a federally designated wilderness
9 area that was designated before the effective date of this Act.

10 (c) Before renewing a permit under this section, the commission-
11 er shall allow interested persons to submit written ^{OR} ~~and~~ oral ^{by} testimony
12 concerning the renewal to the commissioner within 30 days after the
13 date of the notice. The commissioner ^{may} ~~shall~~ hold a hearing to take
14 testimony.

15 (d) Before issuing or renewing a permit under this section, the
16 commissioner shall consider all relevant testimony submitted under
17 this section or AS 38.05.946(b). The commissioner may deny the appli-
18 cation for issuance or renewal for good cause, but shall provide the
19 applicant with written findings that explain the reason for the
20 denial.

21 (e) Before issuing or renewing a permit under this section, the
22 commissioner shall require the permittee to post a performance bond or
23 provide other security to cover the costs to the department of restor-
24 ing the permitted site in the event the permittee abandons the site.

25 Jack C. (f) The commissioner shall adopt regulations establishing crite-
26 ria for the approval or denial of permits under this section ~~and~~ for
27 limiting the number of sites for which permits may be issued in an
28 area in order to protect the environment and natural resources of the
29 area. The regulations must provide for the consideration of upland

1 management policies and whether the proposed use of a site is compati-
2 ble with the traditional and existing uses of the area in which the
3 site is located. 7

4 * Sec. 18. AS 38.05.945(a) is amended to read:

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

7 (1) classification or reclassification of state land under
8 AS 38.05.300 and the closing of land to mineral leasing or entry under
9 AS 38.05.185;

10 (2) zoning of land under applicable law;

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

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

15 #2. (E) (5) a public hearing under AS 38.05.856(c);

16 (6) a preliminary finding under AS 38.05.035(e) and 38.05.-
17 855(c) concerning sites for aquatic farms and related hatcheries.

18 * Sec. 19. AS 38.05.945 is amended by adding a new subsection to read:

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

21 (1) regional fish and game councils established under
22 AS 16.05.260; and

23 (2) coastal resource service areas organized under AS 46.-
24 40.110 - 46.40.210.

25 * Sec. 20. AS 38.05.946 is amended by adding a new subsection to read:

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

1 * Sec. 21. AS 16.05.340(a)(14) is repealed.

2 * Sec. 22. Except as provided in sec. 24 of this Act, the commissioner
3 of fish and game may not issue a permit under AS 16.40.100 or 16.40.120,
4 enacted by sec. 2 of this Act, until regulations have been adopted under
5 AS 16.40.160, enacted by sec. 2 of this Act.

6 * Sec. 23. Except as provided in sec. 24 of this Act, the commissioner
7 of natural resources may not enter into a lease under AS 38.05.083 or issue
8 a permit under AS 38.05.856, enacted by secs. 16 and 17 of this Act, until
9 the commissioner adopts regulations necessary for the implementation of
10 AS 38.05.083 and 38.05.856.

11 * Sec. 24. Notwithstanding any other provisions of law, a person who is
12 lawfully operating an aquatic farm or related hatchery in the state on the
13 effective date of this Act is entitled to continue lawful operations at the
14 existing site. The person may obtain an initial lease or permit for the
15 person's existing operations under AS 38.05.083 or 38.05.856, enacted by
16 secs. 16 and 17 of this Act, but as a condition of obtaining the lease or
17 permit the person must agree that during the term of the lease or permit
18 the person will not change the use of the site.

19 * Sec. 25. This Act takes effect immediately under AS 01.10.070(c).
20
21
22
23
24
25
26
27
28
29

5-1806N

Hein
4/14/88

Original sponsor: Resources Committee

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 482 (Resources)

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 aquatic animals; prohibiting the aquatic farming of
8 Pacific salmon in saltwater; and providing for an
9 effective date."

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

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

12 (1) aquatic farming in the state would

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

14 (B) provide new jobs;

15 (C) increase state exports;

16 (D) create new business opportunities; and

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

18 economy; and

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

24 (b) It is the policy of the state

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

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

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

ARTICLE 2. AQUATIC FARMING.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

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

(1) an aquatic farm; or

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

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

(c) The commissioner may attach conditions to a permit issued under this section that are necessary to protect the natural stock.

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

(e) The commissioner may issue a permit under this section for the freshwater farming of, or freshwater hatchery operations involving, finfish other than Atlantic salmon only in a privately owned freshwater body that has no outlet to state water.

Sec. 16.40.105. CRITERIA FOR ISSUANCE OF PERMITS. The commissioner shall issue permits under AS 16.40.100 on the basis of the following criteria:

(1) the physical and biological characteristics of the proposed farm or hatchery location must be suitable for the farming of

1 the aquatic animal or aquatic plant proposed;

2 (2) the proposed farm may not unreasonably affect
3 management of natural stocks, and must not require significant
4 alterations in traditional fisheries or other existing uses of fish
5 and wildlife resources;

6 (3) the proposed farm may not significantly affect fisher-
7 ies, wildlife, or their habitats in an adverse manner; and

8 (4) the proposed farm plans and staffing plans must demon-
9 strate technical and operational feasibility.

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

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

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

28 Sec. 16.40.120. AQUATIC STOCK ACQUISITION PERMITS. (a) A
29 person may not acquire aquatic plants or aquatic animals from wild

1 stock in the state for the purpose of supplying stock to an aquatic
2 farm or hatchery required to have a permit under AS 16.40.100 unless
3 the person holds an acquisition permit from the commissioner.

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

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

9 (2) the department; or

10 (3) sources outside of the state.

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

19 (d) The commissioner shall deny or restrict a permit under this
20 section upon finding that the proposed harvest will impair sustained
21 yield of the species. The commissioner may deny or restrict a permit
22 under this section upon finding that the proposed harvest will
23 unreasonably disrupt established uses of the resources by commercial,
24 sport, personal use, or subsistence users. The commissioner shall
25 forward to the Board of Fisheries for action permit applications for
26 species that support commercial fisheries subject to limited entry
27 under AS 16.43. A denial of the permit by the commissioner must
28 contain the factual basis for the findings.

29 (e) The Board of Fisheries may adopt regulations for the

1 conservation, maintenance, and management of species for which an
2 acquisition permit is required.

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

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

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

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

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

13 (g) Aquatic plants and aquatic animals acquired under a permit
14 issued under this section become the property of the permit holder and
15 are no longer a public or common resource.

16 Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR AQUATIC ANIMALS
17 FOR STOCK. A person may not import into the state an aquatic plant or
18 aquatic animal for the purpose of supplying stock to an aquatic farm
19 or hatchery unless authorized by a regulation of the Board of Fisher-
20 ies.

21 Sec. 16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND
22 PRODUCTS. (a) A private hatchery required to have a permit under
23 AS 16.40.100 may sell or transfer stock from the hatchery only to an
24 aquatic farm or other hatchery that has a permit issued under AS 16.-
25 40.100, except that bivalve shellfish spat may also be sold or offered
26 for sale to an aquatic farm or related hatchery outside of the state.

27 (b) Stock may not be transferred to or from an aquatic farm or
28 hatchery required to have a permit under AS 16.40.100 without prior
29 notice of the transfer to the commissioner. A notice of transfer

1 shall be submitted at least 45 days before the proposed date of trans-
2 fer.

3 (c) A notice of transfer must be accompanied by a report of a
4 health inspection of the stock. The department shall conduct the
5 inspection or contract with a disease diagnostician to conduct the
6 inspection. The cost of inspection shall be borne by the department.

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

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

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

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

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

29 (d) The department may enter into an agreement with a state or

1 federal agency or a private, state-certified provider to provide ser-
2 vices under (b) and (c) of this section, or inspections under AS 16.-
3 40.110(b).

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

6 Sec. 16.40.170. PENALTY. A person who violates a provision of
7 AS 16.40.100 - 16.40.199, a regulation adopted under AS 16.40.100 -
8 16.40.199, or a term or condition of a permit issued under AS 16.40.-
9 100 - 16.40.199, is guilty of a class B misdemeanor.

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

11 (1) "aquatic animal" means shellfish or finfish;

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

15 (3) "aquatic farm product" means an aquatic plant or
16 aquatic animal, or part of an aquatic plant or aquatic animal, that is
17 propagated, farmed, or cultivated in an aquatic farm and sold or
18 offered for sale;

19 (4) "aquatic plant" means a plant indigenous to state water
20 or that is authorized to be imported into the state under a permit
21 issued by the commissioner;

22 (5) "commissioner" means the commissioner of fish and game;

23 (6) "hatchery" means a facility for the artificial propa-
24 gation of stock, including rearing of juvenile aquatic plants or
25 aquatic animals;

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

1 (8) "shellfish" means a species of crustacean, mollusk, or
2 other invertebrate, in any stage of its life cycle, that is indigenous
3 to state water or that is authorized to be imported into the state
4 under a permit issued by the commissioner;

5 (9) "stock" means live aquatic plants or aquatic animals
6 acquired, collected, possessed, or intended for use by a hatchery or
7 aquatic farm for the purpose of further growth or propagation.

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

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

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

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

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

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

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

21 (6) regulation of fur farming; for purposes of this para-
22 graph, "fur farming" means the raising of and caring for animals for
23 the purpose of marketing their fur, or animals themselves for breeding
24 stock;

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

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

29 (9) establishment of standards and conditions for the

1 operation and siting of aquatic farms and related hatcheries, includ-
2 ing

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

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

6 (10) monitoring aquatic farms and aquatic farm products to
7 ensure compliance with this chapter and with the requirements of the
8 national shellfish sanitation program manual of operations published
9 by the Food and Drug Administration.

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

11 (a) The commissioner shall

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

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

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

29 (4) designate points of entry for admission of livestock or

1 poultry into the state, and arrange inspection at those points with or
2 without collaboration and assistance of the federal government, and
3 bar entry of stock or poultry not shipped under a valid permit or not
4 free from contagious or infectious disease;

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

7 (A) the labeling and grading of milk and milk products
8 and standards of cleanliness and sanitation, to at least the
9 minimum of current recommendations of the United States Public
10 Health Service, for the operation of dairies selling, or offering
11 for sale, milk or milk products;

12 (B) the production and sale of ice cream and allied
13 frozen desserts;

14 (C) the production and sale of imitation milk and
15 imitation milk products;

16 (D) the labeling of aquatic farm products as aquatic
17 farm products.

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

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

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

27 Sec. 03.05.100. DEFINITIONS. In this chapter,

28 (1) "agricultural products" does not include fish or fish-
29 eries products;

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

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

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

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

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

12 (f) Except as expressly provided in AS 16.40.120(d) and 16.40.-
13 130, the Board of Fisheries may not adopt regulations or take action
14 regarding the issuance, denial, or conditioning of a permit under
15 AS 16.40.100 or 16.40.120, the construction or operation of a farm or
16 hatchery required to have a permit under AS 16.40.100, or a harvest
17 with a permit issued under AS 16.40.120. Regulations or orders adopt-
18 ed by the Board of Fisheries under this section do not apply to a
19 harvest with a permit issued under AS 16.40.120.

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

21 (a) Except as otherwise permitted in this chapter, a person may
22 not engage in sport fishing, including the taking of razor clams; in
23 hunting, trapping, or fur dealing; in the farming of [FISH,] fur [,]
24 or game; or in taxidermy, without having the appropriate license or
25 tag in actual possession.

26 * Sec. 10. AS 16.05.930 is amended by adding a new subsection to read:

27 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-
28 thorized by a permit issued under AS 16.40.100 or 16.40.120, or to a
29 person or vessel employed in an activity authorized by a permit issued

1 under AS 16.40.100 or 16.40.120.

2 * Sec. 11. AS 16.05.940(14) is amended to read:

3 (14) "[FISH OR] game farming" means the business of prop-
4 agating, breeding, raising, or producing [FISH OR] game in captivity
5 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-
6 ucts, and "captivity" means having the [FISH OR] game under positive
7 control, as in a pen [, POND,] or an area of land that [OR WATER
8 WHICH] is completely enclosed by a generally escape-proof barrier;

9 * Sec. 12. AS 16.10 is amended by adding a new section to read:

10 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
11 apply to the purchase or sale of aquatic farm products from a holder
12 of a permit issued under AS 16.40.100 or stock from a holder of a
13 permit issued under AS 16.40.120.

14 * Sec. 13. AS 16.10.400 is amended by adding a new subsection to read:

15 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
16 operation of a private hatchery that has a permit issued under AS 16.-
17 40.100.

18 * Sec. 14. AS 16.43.140 is amended by adding a new subsection to read:

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

21 * Sec. 15. AS 16.51.180(5) is amended to read:

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

26 * Sec. 16. AS 38.05 is amended by adding a new section to read:

27 Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES. (a)
28 The commissioner may offer to the public for lease a site that has
29 been developed for aquatic farming or related hatchery operations

1 under a permit issued under AS 38.05.856. Before offering the site to
2 the public, the commissioner shall offer the site to the permittee.

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

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

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

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

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

18 (b) Before ^{issuing or} renewing a permit under this section, the commis-
19 sioner shall allow interested persons to submit written or oral testimony
20 concerning the renewal to the commissioner within 30 days after the
21 date of the notice. The commissioner may hold a hearing to take
22 testimony.

23 (c) Before issuing or renewing a permit under this section, the
24 commissioner shall consider all relevant testimony submitted under
25 this section. The commissioner may deny the application for issuance
26 or renewal for good cause, but shall provide the applicant with writ-
27 ten findings that explain the reason for the denial.

28 (d) Before issuing or renewing a permit under this section, the
29 commissioner shall require the permittee to post a performance bond or

1 provide other security to cover the costs to the department of restor-
2 ing the permitted site in the event the permittee abandons the site.

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

11 * Sec. 18. AS 38.05.945(a) is amended to read:

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

14 (1) classification or reclassification of state land under
15 AS 38.05.300 and the closing of land to mineral leasing or entry under
16 AS 38.05.185;

17 (2) zoning of land under applicable law;

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

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

22 (5) a public hearing under AS 38.05.856(b).

23 * Sec. 19. AS 38.05.945 is amended by adding a new subsection to read:

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

26 (1) regional fish and game councils established under
27 AS 16.05.260; and

28 (2) coastal resource service areas organized under AS 46.-
29 40.110 - 46.40.210.

1 * Sec. 20. AS 16.05.340(a)(14) is repealed.

2 * Sec. 21. Notwithstanding any other provisions of law, a person who is
3 lawfully operating an aquatic farm or related hatchery in the state on the
4 effective date of this Act is entitled to continue lawful operations at the
5 existing site. The person may obtain an initial lease or permit for the
6 person's existing operations under AS 38.05.083 or 38.05.856, enacted by
7 secs. 16 and 17 of this Act, but as a condition of obtaining the lease or
8 permit the person must agree that during the term of the lease or permit
9 the person will not change the use of the site.

10 * Sec. 22. LAND MANAGEMENT REPORT REQUIRED. The commissioner of natu-
11 ral resources shall submit to the legislature not later than January 30,
12 1989, a report detailing the department's implementation of AS 38.05.083
13 and 38.05.856, enacted by secs. 16 and 17 of this Act. The report must
14 include

15 (1) the number of applications received under AS 38.05.083 and
16 38.05.856, and the number of leases and permits issued, according to type
17 of aquatic farm product;

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

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

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

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

24 * Sec. 23. This Act takes effect immediately under AS 01.10.070(c).

5-1806L

Hein

3/8/88

Original sponsor: Resources Committee

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 482 (Resources)

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 aquatic animals; prohibiting the aquatic farming of
8 finfish in saltwater; and providing for an effective
9 date."

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

11 * Section. 1. AS 16.40 is amended by adding new sections to read:

12 ARTICLE 2. AQUATIC FARMING.

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

16 (1) an aquatic farm; or

17 (2) a hatchery for the purpose of supplying aquatic plants
18 or aquatic animals to an aquatic farm.

19 (b) A permit issued under this section authorizes the permittee,
20 subject to the conditions of AS 03.05.011 and AS 16.40.100 - 16.40.-
21 199, to acquire, purchase, offer to purchase, transfer, possess, sell,
22 and offer to sell stock and aquatic farm products that are used or
23 reared at the hatchery or aquatic farm.

24 (c) The commissioner, with the concurrence of the commissioner
25 of environmental conservation, may attach conditions to a permit
26 issued under this section that are necessary to protect the public
27 health or natural stock.

28 (d) Notwithstanding other provisions of law, the commissioner
29 may not issue a permit under this section for the farming of, or

1 hatchery operations involving, finfish in saltwater.

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

5 (1) the biological and environmental suitability of the
6 site for the proposed aquatic farm or hatchery;

7 (2) the ability of the permit applicant to establish and
8 operate the aquatic farm or hatchery without

9 (A) adversely affecting the department's management of
10 wild stocks;

11 (B) requiring alterations in traditional fisheries and
12 other existing uses of fish and wildlife resources; or

13 (C) adversely affecting wild stocks of fish or wild-
14 life, or their habitats.

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

21 (b) An application for renewal or transfer of a permit must be
22 accompanied by fees required by the commissioner, a report of the
23 disease history of the farm or hatchery covered by the permit, and
24 evidence that satisfies the commissioner that the applicant has com-
25 plied with the development plan required under (a) of this section.
26 The commissioner may require a health inspection of the farm or
27 hatchery as a condition of renewal. The department may conduct the
28 inspection or contract with a disease diagnostician to conduct the
29 inspection.

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

4 Sec. 16.40.120. AQUATIC FARM STOCK ACQUISITION PERMITS. (a) A
5 person may not acquire aquatic plants or aquatic animals from wild
6 stock in the state for the purpose of supplying stock to an aquatic
7 farm or hatchery required to have a permit under AS 16.40.100 unless
8 the person holds an acquisition permit from the commissioner.

9 (b) An acquisition permit authorizes the permit holder to ac-
10 quire the species and quantities of wild stock in the state specified
11 in the permit for the purpose of supplying stock to an aquatic farm or
12 hatchery required to have a permit under AS 16.40.100.

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

21 (d) The commissioner shall deny or restrict a permit under this
22 section upon finding that the proposed harvest will impair sustained
23 yield of the species. The commissioner may deny or restrict a permit
24 under this section upon finding that the proposed harvest will disrupt
25 established uses of the resources by commercial, sport, personal use,
26 or subsistence users. The commissioner shall forward to the Board of
27 Fisheries for action permit applications for species that support
28 commercial fisheries subject to limited entry under AS 16.43. A
29 denial of the permit by the commissioner must contain the factual

1 basis for the findings.

2 (e) The Board of Fisheries may adopt regulations for the conser-
3 vation, maintenance, and management of species for which an aquisition
4 permit is required.

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

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

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

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

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

15 (g) Aquatic plants and aquatic animals acquired under a permit
16 issued under this section become the property of the permit holder and
17 are no longer a public or common resource.

18 Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR AQUATIC ANIMALS
19 FOR STOCK. A person may not import into the state an aquatic plant or
20 aquatic animal for the purpose of supplying stock to an aquatic farm
21 or hatchery unless authorized by a regulation of the Board of Fisher-
22 ies.

23 Sec. 16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND
24 PRODUCTS. (a) A private hatchery required to have a permit under
25 AS 16.40.100 may sell or transfer stock from the hatchery only to an
26 aquatic farm or other hatchery that has a permit issued under AS 16.-
27 40.100.

28 (b) Stock may not be transferred to or from an aquatic farm or
29 hatchery required to have a permit under AS 16.40.100 without prior

1 notice of the transfer to the commissioner. A notice of transfer
2 shall be submitted at least 30 days before the proposed date of trans-
3 fer.

4 (c) A notice of transfer must be accompanied by a report of a
5 health inspection of the stock. The department shall conduct the
6 inspection or contract with a disease diagnostician to conduct the
7 inspection. The cost of inspection shall be borne by the department.

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

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

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

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

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

29 (d) The department may enter into an agreement with a state or

1 federal agency or a private, state-certified provider to provide ser-
2 vices under (b) and (c) of this section, or inspections under AS 16.-
3 40.110(b).

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

6 Sec. 16.40.170. PENALTY. A person who violates a provision of
7 AS 16.40.100 - 16.40.199, a regulation adopted under AS 16.40.100 -
8 16.40.199, or a term or condition of a permit issued under AS 16.40.-
9 100 - 16.40.199, is guilty of a class B misdemeanor.

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

11 (1) "aquatic animal" means shellfish or freshwater finfish;

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

15 (3) "aquatic farm product" means an aquatic plant or
16 aquatic animal, or part of an aquatic plant or aquatic animal, that is
17 propagated, farmed, or cultivated in an aquatic farm and sold or
18 offered for sale for the purpose of consumption, or kelp that is
19 cultivated for use in dyes;

20 (4) "aquatic plant" means a plant indigenous to state water
21 or that is authorized to be imported into the state under a permit
22 issued by the commissioner;

23 (5) "commissioner" means the commissioner of fish and game;

24 (6) "hatchery" means a facility for the artificial propa-
25 gation of stock, including rearing of juvenile aquatic plants or
26 aquatic animals;

27 (7) "positive control" means, for mobile species, enclosed
28 within a natural or artificial escape-proof barrier; for species with
29 limited or no mobility, such as a bivalve or an aquatic plant,

1 "positive control" also includes managed cultivation in unenclosed
2 water;

3 (8) "shellfish" means a species of crustacean, mollusk, or
4 other invertebrate, in any stage of its life cycle, that is indigenous
5 to state water or that is authorized to be imported into the state
6 under a permit issued by the commissioner;

7 (9) "stock" means live aquatic plants or aquatic animals
8 acquired, collected, possessed, or intended for use by a hatchery or
9 aquatic farm for the purpose of further growth or propagation.

10 * Sec. 2. AS 03.05.011(a) is amended to read:

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

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

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

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

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

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

23 (6) regulation of fur farming; for purposes of this para-
24 graph, "fur farming" means the raising of and caring for animals for
25 the purpose of marketing their fur, or animals themselves for breeding
26 stock;

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

29 (8) enforcement of quality assurance plans developed in

1 cooperation with appropriate industry representatives;

2 (9) establishment of standards and conditions of operation
3 for aquatic farms and related hatcheries, including

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

5 (B) requirements to protect the public from contami-
6 nants that pose a risk to health.

7 * Sec. 3. AS 03.05.020(a) is amended to read:

8 (a) The commissioner shall

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

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

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

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

1 free from contagious or infectious disease;

2 (5) adopt, repeal, and amend regulations consistent with
3 existing law for

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

9 (B) the production and sale of ice cream and allied
10 frozen desserts;

11 (C) the production and sale of imitation milk and
12 imitation milk products;

13 (D) the labeling of aquatic farm products as aquatic
14 farm products;

15 (6) monitor aquatic farms that hold permits under AS 16.-
16 40.100 to ensure compliance with the requirements of the national
17 shellfish sanitation program manual of operations published by the
18 Food and Drug Administration.

19 * Sec. 4. AS 03.05.040(a) is amended to read:

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

27 * Sec. 5. AS 03.05.100 is amended to read:

28 Sec. 03.05.100. DEFINITIONS. In this chapter,

29 (1) "agricultural products" does not include fish or

fisheries products;

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

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

* Sec. 6. AS 16.05.050 is amended by adding a new paragraph to read:

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

* Sec. 7. AS 16.05.251 is amended by adding a new subsection to read:

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

* Sec. 8. AS 16.05.330(a) is amended to read:

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

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

(g) AS 16.05.330 - 16.05.720 do not apply to an activity authorized by a permit issued under AS 16.40.100 or 16.40.120, or to a

1 person or vessel employed in an activity authorized by a permit issued
2 under AS 16.40.100 or 16.40.120.

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

4 (14) "[FISH OR] game farming" means the business of prop-
5 agating, breeding, raising, or producing [FISH OR] game in captivity
6 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-
7 ucts, and "captivity" means having the [FISH OR] game under positive
8 control, as in a pen [, POND,] or an area of land that [OR WATER
9 WHICH] is completely enclosed by a generally escape-proof barrier;

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

11 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
12 apply to the purchase or sale of aquatic farm products from a holder
13 of a permit issued under AS 16.40.100 or stock from a holder of a
14 permit issued under AS 16.40.120.

15 * Sec. 12. AS 16.10.400 is amended by adding a new subsection to read:

16 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
17 operation of a private hatchery that has a permit issued under AS 16.-
18 40.100.

19 * Sec. 13. AS 16.43.140 is amended by adding a new subsection to read:

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

22 * Sec. 14. AS 16.51.180(5) is amended to read:

23 (5) "Seafood" means finfish, shellfish, and fish by-prod-
24 ucts, including but not limited to salmon, halibut, herring, flounder,
25 crab, clam, cod, shrimp, and pollock, but does not include aquatic
26 farm products as defined in AS 16.40.199;

27 * Sec. 15. AS 38.05 is amended by adding a new section to read:

28 Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES. (a)
29 The commissioner may offer to the public for lease a site that has

1 been developed for aquatic farming or related hatchery operations
 2 under a permit issued under AS 38.05.856. Before offering the site to
 3 the public, the commissioner shall offer the site to the permittee.

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

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

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

13 * Sec. 16. AS 38.05 is amended by adding a new section to read:

14 Sec. 38.05.856. TIDELAND AND LAND USE PERMITS FOR AQUATIC FARM-
 15 ING. (a) The commissioner may issue a tideland or land use permit
 16 for the establishment and operation of an aquatic farm and related
 17 hatchery operations for not less than the appraised fair market rental
 18 value of the site. The value shall be reappraised every five years.

19 (b) A permit under this section is valid for five years after
 20 the date of issuance. The permit may not be transferred.

21 (c) Before issuing or renewing a permit under this section, the
 22 commissioner shall (1) provide a copy of the application to newspa-
 23 pers, radio and television stations for public service announcement or
 24 (2) provide paid notice of the application once each week for three
 25 successive weeks in a newspaper or by radio. The notice required in
 26 this subsection must be in more than one language if the commissioner
 27 decides it is necessary. The notice must state that interested per-
 28 sons may submit written and oral testimony concerning the issuance or
 29 renewal to the commissioner within 30 days after the date of the

Handwritten note:
 look at 38.05.856
 10/23/10

1 notice. The commissioner shall hold a hearing to take testimony.

2 (d) Before issuing or renewing a permit under this section, the
3 commissioner shall consider all relevant testimony submitted. Based
4 on the testimony or other good cause, the commissioner may deny the
5 application for issuance or renewal, but must provide the applicant
6 with written findings that explain the reason for the denial.

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

11 (f) The commissioner shall adopt regulations establishing crite-
12 ria for the approval or denial of permits under this section and for
13 limiting the number of sites for which permits may be issued in an
14 area in order to protect the environment and natural resources of the
15 area.

16 * Sec. 17. AS 16.05.240(a)(14) is repealed.

17 * Sec. 18. Except as provided in sec. 20 of this Act, the commissioner
18 of fish and game may not issue a permit under AS 16.40.100 or 16.40.120,
19 enacted by sec. 1 of this Act, until regulations have been adopted under
20 AS 16.40.160, enacted by sec. 1 of this Act.

21 * Sec. 19. Except as provided in sec. 20 of this Act, the commissioner
22 of natural resources may not enter into a lease under AS 38.05.083 or issue
23 a permit under AS 38.05.856, enacted by secs. 15 and 16 of this Act, until
24 the commissioner adopts regulations necessary for the implementation of
25 AS 38.05.083 and 38.05.856.

26 * Sec. 20. Notwithstanding any other provisions of law, a person who is
27 lawfully operating an aquatic farm or related hatchery in the state on the
28 effective date of this Act is entitled to continue lawful operations at the
29 existing site. The person may obtain an initial lease or permit for the

1 person's existing operations under AS 38.05.083 or 38.05.856, enacted by
2 secs. 15 and 16 of this Act, but as a condition of obtaining the lease or
3 permit the person must agree that during the term of the lease or permit
4 the person will not expand operations beyond the scope allowed under the
5 existing permit.

6 * Sec. 21. This Act takes effect immediately under AS 01.10.070(c).
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

5-18061
Hein
3/14/88

Original sponsor: Resources Committee

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 482 (Resources)

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 aquatic animals; prohibiting the aquatic farming of
8 certain finfish in saltwater; and providing for an
9 effective date."

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

11 * Section. 1. AS 16.40 is amended by adding new sections to read:

12 ARTICLE 2. AQUATIC FARMING.

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

16 (1) an aquatic farm; or

17 (2) a hatchery for the purpose of supplying aquatic plants
18 or aquatic animals to an aquatic farm.

19 (b) A permit issued under this section authorizes the permittee,
20 subject to the conditions of AS 03.05.011 and AS 16.40.100 - 16.40.-
21 199, to acquire, purchase, offer to purchase, transfer, possess, sell,
22 and offer to sell stock and aquatic farm products that are used or
23 reared at the hatchery or aquatic farm.

24 (c) The commissioner, with the concurrence of the commissioner
25 of environmental conservation, may attach conditions to a permit
26 issued under this section that are necessary to protect the public
27 health or natural stock.

28 (d) Notwithstanding other provisions of law, the commissioner
29 may not issue a permit under this section for the farming of, or

1 hatchery operations involving, the following species of Pacific salmon
2 in a bay or estuary of the state: chinook, sockeye, coho, pink, and
3 chum.

4 (e) Notwithstanding other provisions of law, the commissioner
5 may not issue a permit under this section for the farming of, or
6 hatchery operations involving, Atlantic salmon in saltwater.

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

10 (1) the biological and environmental suitability of the
11 site for the proposed aquatic farm or hatchery;

12 (2) the ability of the permit applicant to establish and
13 operate the aquatic farm or hatchery without

14 (A) adversely affecting the department's management of
15 wild stocks;

16 (B) requiring alterations in traditional fisheries and
17 other existing uses of fish and wildlife resources; or

18 (C) adversely affecting wild stocks of fish or wild-
19 life, or their habitats.

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

26 (b) An application for renewal or transfer of a permit must be
27 accompanied by fees required by the commissioner, a report of the
28 disease history of the farm or hatchery covered by the permit, and
29 evidence that satisfies the commissioner that the applicant has

1 complied with the development plan required under (a) of this section.
2 The commissioner may require a health inspection of the farm or
3 hatchery as a condition of renewal. The department may conduct the
4 inspection or contract with a disease diagnostician to conduct the
5 inspection.

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

9 Sec. 16.40.120. AQUATIC FARM STOCK ACQUISITION PERMITS. (a) A
10 person may not acquire aquatic plants or aquatic animals from wild
11 stock in the state for the purpose of supplying stock to an aquatic
12 farm or hatchery required to have a permit under AS 16.40.100 unless
13 the person holds an acquisition permit from the commissioner.

14 (b) An acquisition permit authorizes the permit holder to ac-
15 quire the species and quantities of wild stock in the state specified
16 in the permit for the purpose of supplying stock to an aquatic farm or
17 hatchery required to have a permit under AS 16.40.100.

18 (c) The commissioner shall specify the expiration date of an
19 acquisition permit and may attach conditions to an acquisition permit,
20 including conditions relating to the time, place, and manner of har-
21 vest. Size, gear, place, time, licensing, and other limitations
22 applicable to sport, commercial, or subsistence harvest of aquatic
23 plants and aquatic animals do not apply to a harvest with a permit
24 issued under this section. The commissioner of fish and game shall
25 issue or deny a permit within 30 days after receiving an application.

26 (d) The commissioner shall deny or restrict a permit under this
27 section upon finding that the proposed harvest will impair sustained
28 yield of the species. The commissioner may deny or restrict a permit
29 under this section upon finding that the proposed harvest will disrupt

1 established uses of the resources by commercial, sport, personal use,
2 or subsistence users. The commissioner shall forward to the Board of
3 Fisheries for action permit applications for species that support
4 commercial fisheries subject to limited entry under AS 16.43. A
5 denial of the permit by the commissioner must contain the factual
6 basis for the findings.

7 (e) The Board of Fisheries may adopt regulations for the conser-
8 vation, maintenance, and management of species for which an aquisition
9 permit is required.

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

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

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

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

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

20 (g) Aquatic plants and aquatic animals acquired under a permit
21 issued under this section become the property of the permit holder and
22 are no longer a public or common resource.

23 Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR AQUATIC ANIMALS
24 FOR STOCK. A person may not import into the state an aquatic plant or
25 aquatic animal for the purpose of supplying stock to an aquatic farm
26 or hatchery unless authorized by a regulation of the Board of Fisher-
27 ies.

28 Sec. 16.40.140. LIMITATION ON SALE, TRANSFER OF STOCK, AND
29 PRODUCTS. (a) A private hatchery required to have a permit under

1 AS 16.40.100 may sell or transfer stock from the hatchery only to an
2 aquatic farm or other hatchery that has a permit issued under AS 16.-
3 40.100.

4 (b) Stock may not be transferred to or from an aquatic farm or
5 hatchery required to have a permit under AS 16.40.100 without prior
6 notice of the transfer to the commissioner. A notice of transfer
7 shall be submitted at least 30 days before the proposed date of trans-
8 fer.

9 (c) A notice of transfer must be accompanied by a report of a
10 health inspection of the stock. The department shall conduct the
11 inspection or contract with a disease diagnostician to conduct the
12 inspection. The cost of inspection shall be borne by the department.

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

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

22 Sec. 16.40.150. DISEASE CONTROL AND INSPECTION. (a) The de-
23 partment shall order the quarantine or the destruction and disposal of
24 diseased hatchery stock or of aquatic farm products when necessary to
25 protect wild stock. A holder of a permit issued under AS 16.40.100
26 shall report to the department an outbreak or incidence of disease
27 among stock or aquatic farm products of the permit holder.

28 (b) A holder of a permit issued under AS 16.40.100 shall allow
29 the department to inspect the permit holder's farm or hatchery during

1 operating hours and upon reasonable notice. The cost of inspection
2 shall be borne by the department.

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

5 (d) The department may enter into an agreement with a state or
6 federal agency or a private, state-certified provider to provide ser-
7 vices under (b) and (c) of this section, or inspections under AS 16.-
8 40.110(b).

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

11 Sec. 16.40.170. PENALTY. A person who violates a provision of
12 AS 16.40.100 - 16.40.199, a regulation adopted under AS 16.40.100 -
13 16.40.199, or a term or condition of a permit issued under AS 16.40.-
14 100 - 16.40.199, is guilty of a class B misdemeanor.

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

16 (1) "aquatic animal" means shellfish or freshwater finfish;

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

20 (3) "aquatic farm product" means an aquatic plant or
21 aquatic animal, or part of an aquatic plant or aquatic animal, that is
22 propagated, farmed, or cultivated in an aquatic farm and sold or
23 offered for sale for the purpose of consumption, or kelp that is
24 cultivated for use in dyes;

25 (4) "aquatic plant" means a plant indigenous to state water
26 or that is authorized to be imported into the state under a permit
27 issued by the commissioner;

28 (5) "commissioner" means the commissioner of fish and game;

29 (6) "hatchery" means a facility for the artificial

1 propagation of stock, including rearing of juvenile aquatic plants or
2 aquatic animals;

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

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

11 (9) "stock" means live aquatic plants or aquatic animals
12 acquired, collected, possessed, or intended for use by a hatchery or
13 aquatic farm for the purpose of further growth or propagation.

14 * Sec. 2. AS 03.05.011(a) is amended to read:

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

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

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

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

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

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

27 (6) regulation of fur farming; for purposes of this para-
28 graph, "fur farming" means the raising of and caring for animals for
29 the purpose of marketing their fur, or animals themselves for breeding

1 stock;

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

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

6 (9) establishment of standards and conditions of operation
7 for aquatic farms and related hatcheries, including

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

9 (B) requirements to protect the public from contami-
10 nants that pose a risk to health.

11 * Sec. 3. AS 03.05.020(a) is amended to read:

12 (a) The commissioner shall

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

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

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

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

6 (5) adopt, repeal, and amend regulations consistent with
7 existing law for

8 (A) the labeling and grading of milk and milk products
9 and standards of cleanliness and sanitation, to at least the
10 minimum of current recommendations of the United States Public
11 Health Service, for the operation of dairies selling, or offering
12 for sale, milk or milk products;

13 (B) the production and sale of ice cream and allied
14 frozen desserts;

15 (C) the production and sale of imitation milk and
16 imitation milk products;

17 (D) the labeling of aquatic farm products as aquatic
18 farm products;

19 (6) monitor aquatic farms that hold permits under AS 16.-
20 40.100 to ensure compliance with the requirements of the national
21 shellfish sanitation program manual of operations published by the
22 Food and Drug Administration.

23 * Sec. 4. AS 03.05.040(a) is amended to read:

24 (a) On any business day during the usual hours of business the
25 commissioner or an authorized inspector may, for the purpose of in-
26 specting agricultural, [OR] fisheries, or aquatic farm products or
27 aquatic farm sites subject to regulation, enter a storehouse, ware-
28 house, cold storage plant, packing house, slaughterhouse, retail store
29 or other building or place where those products are kept, stored,

1 processed or sold.

2 * Sec. 5. AS 03.05.100 is amended to read:

3 Sec. 03.05.100. DEFINITIONS. In this chapter,

4 (1) "agricultural products" does not include fish or fish-
5 eries products;

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

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

11 * Sec. 6. AS 16.05.050 is amended by adding a new paragraph to read:

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

16 * Sec. 7. AS 16.05.251 is amended by adding a new subsection to read:

17 (f) Except as expressly provided in AS 16.40.120(d) and 16.40.-
18 130, the Board of Fisheries may not adopt regulations or take action
19 regarding the issuance, denial, or conditioning of a permit under
20 AS 16.40.100 or 16.40.120, the construction or operation of a farm or
21 hatchery required to have a permit under AS 16.40.100, or a harvest
22 with a permit issued under AS 16.40.120. Regulations or orders adopt-
23 ed by the Board of Fisheries under this section do not apply to a
24 harvest with a permit issued under AS 16.40.120.

25 * Sec. 8. AS 16.05.330(a) is amended to read:

26 (a) Except as otherwise permitted in this chapter, a person may
27 not engage in sport fishing, including the taking of razor clams; in
28 hunting, trapping, or fur dealing; in the farming of [FISH,] fur [,]
29 or game; or in taxidermy, without having the appropriate license or

1 tag in actual possession.

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

3 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-
4 thORIZED by a permit issued under AS 16.40.100 or 16.40.120, or to a
5 person or vessel employed in an activity authorized by a permit issued
6 under AS 16.40.100 or 16.40.120.

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

8 (14) "[FISH OR] game farming" means the business of prop-
9 agating, breeding, raising, or producing [FISH OR] game in captivity
10 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-
11 ucts, and "captivity" means having the [FISH OR] game under positive
12 control, as in a pen [, POND,] or an area of land that [OR WATER
13 WHICH] is completely enclosed by a generally escape-proof barrier;

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

15 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
16 apply to the purchase or sale of aquatic farm products from a holder
17 of a permit issued under AS 16.40.100 or stock from a holder of a
18 permit issued under AS 16.40.120.

19 * Sec. 12. AS 16.10.400 is amended by adding a new subsection to read:

20 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
21 operation of a private hatchery that has a permit issued under AS 16.-
22 40.100.

23 * Sec. 13. AS 16.43.140 is amended by adding a new subsection to read:

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

26 * Sec. 14. AS 16.51.180(5) is amended to read:

27 (5) "seafood" means finfish, shellfish, and fish by-prod-
28 ucts, including but not limited to salmon, halibut, herring, flounder,
29 crab, clam, cod, shrimp, and pollock, but does not include aquatic

1 farm products as defined in AS 16.40.199;

2 * Sec. 15. AS 38.05 is amended by adding a new section to read:

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

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

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

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

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

17 * Sec. 16. AS 38.05 is amended by adding a new section to read:

18 Sec. 38.05.856. TIDELAND AND LAND USE PERMITS FOR AQUATIC FARM-
19 ING. (a) The commissioner may issue a tideland or land use permit
20 for the establishment and operation of an aquatic farm and related
21 hatchery operations for not less than the appraised fair market rental
22 value of the site. The value shall be reappraised every five years.

23 (b) A permit under this section is valid for five years after
24 the date of issuance. The permit may not be transferred.

25 (c) Before issuing or renewing a permit under this section, the
26 commissioner shall (1) provide a copy of the application to newspa-
27 pers, radio and television stations for public service announcement or
28 (2) provide paid notice of the application once each week for three
29 successive weeks in a newspaper or by radio. The notice required in

1 this subsection must be in more than one language if the commissioner
2 decides it is necessary. The notice must state that interested per-
3 sons may submit written and oral testimony concerning the issuance or
4 renewal to the commissioner within 30 days after the date of the
5 notice. The commissioner shall hold a hearing to take testimony.

6 (d) Before issuing or renewing a permit under this section, the
7 commissioner shall consider all relevant testimony submitted. Based
8 on the testimony or other good cause, the commissioner may deny the
9 application for issuance or renewal, but must provide the applicant
10 with written findings that explain the reason for the denial.

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

15 (f) The commissioner shall adopt regulations establishing crite-
16 ria for the approval or denial of permits under this section and for
17 limiting the number of sites for which permits may be issued in an
18 area in order to protect the environment and natural resources of the
19 area.

20 * Sec. 17. AS 16.05.340(a)(14) is repealed.

21 * Sec. 18. AS 16.40.100(d) is repealed five years after the effective
22 date of this Act.

23 * Sec. 19. Except as provided in sec. 21 of this Act, the commissioner
24 of fish and game may not issue a permit under AS 16.40.100 or 16.40.120,
25 enacted by sec. 1 of this Act, until regulations have been adopted under
26 AS 16.40.160, enacted by sec. 1 of this Act.

27 * Sec. 20. Except as provided in sec. 21 of this Act, the commissioner
28 of natural resources may not enter into a lease under AS 38.05.083 or issue
29 a permit under AS 38.05.856, enacted by secs. 15 and 16 of this Act, until

1 the commissioner adopts regulations necessary for the implementation of
2 AS 38.05.083 and 38.05.856.

3 * Sec. 21. Notwithstanding any other provisions of law, a person who is
4 lawfully operating an aquatic farm or related hatchery in the state on the
5 effective date of this Act is entitled to continue lawful operations at the
6 existing site. The person may obtain an initial lease or permit for the
7 person's existing operations under AS 38.05.083 or 38.05.856, enacted by
8 secs. 15 and 16 of this Act, but as a condition of obtaining the lease or
9 permit the person must agree that during the term of the lease or permit
10 the person will not expand operations beyond the scope allowed under the
11 existing permit.

12 * Sec. 22. This Act takes effect immediately under AS 01.10.070(c).
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

S B

4 8 3

STATE RANGELAND PROPOSAL

1

AREA: SEWARD PENINSULA

ACREAGE: 3,500,000 acres

LOCATION: NOME area

LOCAL GOVERNMENT OR REGIONAL CORPORATION: NANA Regional Corp., Eering
Straits Native Corp.

DNR LAND USE PLAN: Northwest Area Plan (NWAP) (in process)

LAND CLASSIFICATION: Resource Management

LAND INTEREST: State patented, tentatively approved, and selected

HISTORY OF GRADING USE: Reindeer were originally brought to the area in the late 1800's. Grazing has continued since then, with a permit system instituted in the 1930's. The Seward Peninsula reindeer industry currently employs 300-400 permanent and seasonal employees, with total herd numbers of 15-20 thousand head. A significant portion of local meat consumption consists of reindeer.

THREATS TO FUTURE GRADING: Land disposals are planned for some state lands.

COMMENTS REQUESTED/RESPONSE:

ADFG/ no comment

ADIC/ no comment

AK Div. Parks/ no comment

NANA Reg. Corp./ No problem with legislative designation

Eering Straits Native Corp./ no comment

OPTIONS:

1. grazing allowed area wide through secondary use designation in NWAP with proposed 700 acres land disposals to remain (status quo)
2. same as # 1 above with proposed disposals deleted
3. grazing as a primary designation in NWAP and grazing classification.
4. Strong language in NWAP of the state's commitment to continued use and development of state rangelands for reindeer grazing in cooperation with the other land owners on the peninsula.
5. Legislative designation as state rangeland

RECOMMENDATIONS:

ASWC - #1's 145

Directors of Agriculture and DLW -

Commissioner -



KOTZEBUE SOUND

Kotzebue

PROFESSOR

hishmar

SEWARD PENINSULA

NORTON SOUND

CHARLIE BURN

MATHEW VILAGE

KOLIK

THANKS

THANKS

STRAITS

10

King Island

SEWARD PENINSULA

Harbor

Harbor

Harbor

Harbor