

The Aquatic Farm Program

The Aquatic Farm Act:
A law to encourage the
establishment and
responsible growth of an
aquatic farming industry in
the state

Agenda:
To gather input for updates and
revisions
to the current program
regulations.



A Brief History of the Aquatic Farm Act and creation of the program

- What is it?
 - A law enacted in 1988 by the Legislature to provide a regulatory platform for Alaska's emerging aquatic farm industry
- Who are the regulators?
 - The Alaska Department of Natural Resources (DNR)
 - The Alaska Department of Fish and Game (ADF&G)
 - The Alaska Department of Environmental Conservation (ADEC)

The Intent

Findings and Policy of the Act's intent to establish a commercial aquatic farm industry:

- To provide a consistent source of quality food
- Provide new jobs
- Increase state exports
- Create new business opportunities
- Increase the stability and diversity of the state's economy

An overall goal:

Development of aquatic farming in the state would increase the availability of seafood to Alaskans and would strengthen the competitiveness of Alaska's seafood in the world marketplace by broadening the diversity of products.

How the program worked under DNR regulations

- From 1988 to 1997 an aquatic farmer could apply for a new site under a three year permit.
- This allowed the farmer to put gear in the water, conduct site suitability studies, and culture aquatic farm product. Reports and feedback to the regulatory agencies was a requirement under the terms and conditions of the permit.
- At the expiration of the permit, if the site was suitable and the farmer had met the benchmarks set forth under the permit. A 10 year lease was issued.

1997

- Kachemak Bay Watch Inc., sued DNR.
- The case went to the Supreme Court who upheld the appellants claim on the grounds that:
 - Per AS 38.05.855, DNR identified districts on a procedural level, but failed to do so on a substantive level
 - As a result the court found DNR to be in violation of this statute, invalidated DNR's decision to accept applications for aquatic farming throughout Southcentral and Southeast Alaska and remanded the case back to DNR for implementation of AS 38.05.855

However the supreme court upheld the superior courts ruling that DNR's permitting regulations were sufficient

1997 revisions to the Law

- One important note: The supreme court determined the Aquatic Farm Act expressly required DNR to adopt regulations to establish criteria for the approval or denial of aquatic farms permits; but did require identification of districts suitable for aquatic farming.
- In response, the Legislature passed a law repealing AS 38.05.855 which pertained to district identification
- Because AS 38.05.856, the issuance of aquatic farm permits, was essentially a subset of AS 38.05.855 it was repealed as well
- AS 38.05.083 was amended to allow DNR to enter directly into leases with aquatic farmers and bypass the permit stage.

HB 208

- But now, little guidance from the state as to suitable areas for aquatic farming.
- So in 2002 the Legislature came back to DNR with HB 208 mandating the department assist farmers by identifying sites that may be suitable for aquatic farming.
- To comply with this DNR, identified 158 potential aquatic farmsites within the state. These included suspended culture sites, intertidal sites and subtidal sites.
- These sites were subsequently reviewed under the proper regulatory guidelines, including the now defunct Alaska Coastal Management Program, and offered at auction with the remainder available 'over the counter'. To date, 53 of these sites are still available.
- Along with these site offerings, DNR's regulations were updated again.

Present Day

- So here we are again, 10 years later and it's time to take a look at the existing regulations and determine if it's appropriate to update them and if so how?
- In the past DNR has presented the aquatic farmers, industry members, and interested parties with proposed regulatory revisions and solicited comments on that package.
- But this time we are going to do it a little differently. We are going to get your input and suggestions first and then draft proposed regulatory revisions to be released for comments.

Some of the things we want to talk about

- How should we authorize new farmsites/entry level farmers/new species/new technology?
 - Should we return to issuing permits first to allow for the flexibility to move locations/change culture method/prevent beginning farmers from getting in 'over their heads'?
 - Should we offer shorter term leases?
 - What can the department do regulatory wise to help entry level farmers?

(It would be great to see the industry take a cooperative role and develop a training program or apprenticeship program!)

What about the CUR?

- Measurement Standards to determine 'commercial success' (the intent of the Aquatic Farm Act was to create a commercial industry)
 - Currently, we have the commercial use requirement (11 AAC 63.030(b)), of \$3,000/acre or \$15,000/farm, whichever is less.
 - Is this still applicable?
 - Should it be product? (it was 50,000 species until 1998)
 - What about for species other than oysters?
- Commercial versus Hobby farms
 - Right now the program is focused on commercial farms which is the intent of the Act...should we have a subset to allow for smaller producing farms?
 - How should those be authorized; permit versus lease?

Still required of all leases, including Aquatic Farm Leases

- The Three Legged Stool:
 - Site Utilization
 - Development Plan
 - Annual Reports
- Completed Application and Development Plan or Business Plan with information sufficient to evaluate the project under the applicable statutes:
 - AS 38.05.083, the Aquatic Farm Program
 - AS 38.05.070 General leasing,
 - AS 38.05.126 Navigable and Public Waters,
 - AS 38.05.128 Obstructions to Navigable Waters



Requirements Continued...

- Updated Development Plan submitted to the department when changes to the business operation occur. This can include changes to infrastructure, species, culture gear, etc. Most of the time a formal amendment will not be required.
- Formal Amendment to the lease will happen when increasing or decreasing acreage or relocating farmsite



Requirements Continued...

- Annual Reports to ADF&G and DNR (can be one report) documenting any problems encountered (environmental, seed supply, disease, etc.), any changes to the operation, product sales, seed purchased, new culture gear deployed, etc.
- These annual reports are two-fold:
 - 1) to assure the site is still being used in accordance with 11 AAC 58.510 (site utilization) and
 - 2) to identify any trends within the farming community that may have larger implications for all program participants

Which leads us to...

- What can you as aquatic farmers, industry members, interested parties and members of the public offer to us to assist us in building a better regulatory platform for the Aquatic Farm Program
- Best Management Practices!!
 - Currently there is a bit of a disconnect between the industry and the regulators. We need you to help us fill in the blanks!!

Thanks!

Questions, Answers, and General Comments

Now Welcome!

