

Aquatic Farm Application Process

To start an aquatic farm in Alaska, you must first apply for and receive authorizations from the State of Alaska and the U.S. Army Corps of Engineers. The Department of Natural Resources, Division of Mining, Land and Water (DMLW) currently holds an application opening every other year beginning January 1 and ending April 30. The process for aquatic farm applications takes approximately twelve months to complete after the opening ends. The applications are “batch-processed” in order to assess cumulative impacts and carrying capacity within a particular area.

The joint-agency application includes instructions, examples and guidelines to assist you in completing your application form. The application has evolved into a joint-agency application that addresses the concerns of all involved state agencies requiring some type of authorization or certification, and includes this department, the Departments of Fish and Game and Environmental Conservation. Consequently, the applicant does not have to answer the same questions on as many as five separate application forms.

DMLW accepts the applications and prepares a review schedule. Concurrent with the review of the applications for state agency authorizations, a review for consistency with the Alaska Coastal Management Program (ACMP) also begins. The Office of Project Management and Permitting (OPMP), Alaska Coastal Management Program section conducts the ACMP review and sets Day 1. Once the review period ends, OPMP makes a determination whether a proposal is consistent with the standards of the ACMP, including any enforceable policies described within an affected coastal district management plan. This determination is required before DMLW is able to authorize a lease agreement. DMLW is only able to authorize aquatic farm activities if the proposal is found consistent by OPMP.

After the applications are received and found to be complete, the agencies may hold individual application meetings to fully understand the proposal. DMLW gathers information about the area of the proposed site from documents, such as state and/or federal management plans, U.S. Coast Pilots, and coastal district management plans. State and federal agencies may be contacted for specific information. A description of the proposal and everything that is learned is included a preliminary best interest finding and decision, or “preliminary decisions” (PD). The PDs are noticed and agencies and the public are provided with a 30-day comment period. The PDs recommend approval or denial of the application based only on the information that is known at the time. It is hoped that the review period results in more site-specific information so that the involved agencies can make more informed decisions regarding their respective authorizations.

While OPMP, the Department of Fish and Game (DFG) and the Department of Environmental Conservation (DEC) are reviewing issues that pertain to their respective authorities, DMLW considers such issues as whether there may be conflicts with traditional or existing uses of the site, such as commercial or sport fishing, subsistence activities, use of the site for safe boat anchorage, recreation, or tourism; how public access will be maintained; if the proposed gear or related facilities could pose hazards to navigation; or whether the proposal may impact cultural or historic sites.

Additionally, DMLW manages state owned tide and submerged lands to allow for multiple uses in accordance with the Public Trust Doctrine. The Public Trust Doctrine is applicable whenever navigable waters or the lands beneath are altered, developed, conveyed, or otherwise managed or preserved. It applies whether the trust lands are publicly owned or privately owned. The Public Trust Doctrine provides that these trust lands, waters and living resources in a State, are held by the State in trust for the benefit of all the people, and establishes the right of the public to fully enjoy the trust lands, water and living resources for a wide variety of recognized public uses, such as navigation, commerce, fishing, and other purposes. DMLW evaluates a proposal to ensure those public trust resources are protected. Specific language is included in the lease agreement that subjects it to the principles under the Public Trust Doctrine.

During the 30-day review and comment period of the PDs, both written and oral testimony may be provided. Hearings are held at the request of five or more people wishing to testify. The hearings are generally held by teleconference out of Anchorage, although depending on the number of applications, may be scheduled in a community nearest to the applications, with outlying teleconferenced locations.

With the information received, DMLW prepares and issues the final best interest findings and decisions or “final decisions” (FD). All comments received during this time are considered and addressed in the final decisions. **It is important to note that only those that comment during the 30-day review period, either in writing or by public testimony on a specific proposal, will be eligible to appeal DMLW’s final decision on that proposal.** Anyone who provided either written or oral comments will be sent a copy of the final decision, which includes an explanation of the appeal process.

Before a lease is issued, the first year’s annual payment is required. Fees for a DMLW lease are based on fair market value. Our division’s appraiser has compared the values of tide and submerged lands in similar areas and has developed a fee schedule for aquatic farms. The current fee schedule sets the annual lease fee at \$450 for the first acre, or fraction, and \$125 for each additional acre or fraction. Applicants may choose not to use the fee schedule and have an independent appraisal done, at their own expense. This fee is for the DMLW lease only. There may be other fees required by the other regulatory agencies.

In addition, DMLW requires the applicant to post a performance bond of a minimum of \$2500. DMLW can raise the amount of the bond after considering such items as the remoteness of a proposal and the amount of gear and/or facilities proposed. Generally, bonds for farmsites 5 acres or less are \$2500, and farms with more than 5 acres have a bond of \$5,000 or more. It mainly depends on the amount of improvements proposed and the estimated costs for DMLW to remove the improvements or clean up and restore the site if the lessee fails to do so at lease expiration, termination, or abandonment.

At the end of year five of the ten-year lease, the farmer is required to meet a commercial use or production level set by DMLW regulations. This requirement was implemented in an effort to prevent “hobbyists” from speculating and not using an area for the commercial purposes intended. If the commercial use requirement is not met by year five of the lease and continued each year for the remaining term, the lease will be terminated. The current commercial use

requirement is \$3,000 in sales per acre, or fraction of an acre, up to \$15,000 per farm, whichever is less.

You may visit DFG's and DEC's websites for information related to their respective authorizations at:

DFG: <http://www.cf.adfg.state.ak.us/geninfo/enhance/maricult/maricult.php>

DEC: <http://www.dec.state.ak.us/eh/fss/seafood/seafood.htm>