



The National Offshore Aquaculture Act of 2007

Purpose of the Bill: To provide the necessary authority to the Secretary of Commerce for the establishment and implementation of a regulatory system for aquaculture in Federal waters, also known as the U.S. Exclusive Economic Zone (EEZ).

What the Bill Will Do:

- Authorize the Secretary of Commerce to issue offshore aquaculture permits.
- Require the Secretary of Commerce to establish environmental requirements.
- Require the Secretary of Commerce to work with other federal agencies to develop and implement a coordinated permitting process for offshore aquaculture.
- Exempt permitted offshore aquaculture from fishing regulations that restrict size, season and harvest methods.
- Authorize a research and development program for all types of marine aquaculture.
- Authorize funding to carry out the Act and provide for enforcement of the Act.

Highlights of the 2007 National Offshore Aquaculture Act

Environmental Requirements

Permit decisions must take into account environmental requirements and compatibility with other uses.

- The Secretary of Commerce would be required to consult with other federal agencies and coastal states to identify the environmental requirements that already apply under current law and to develop additional requirements through rulemaking.
- The permit process specifically requires public notification and comment and an analysis under the National Environmental Policy Act (NEPA).
- Environmental requirements specifically address risks to and impacts (including cumulative impacts) on natural fish stocks and fisheries, marine ecosystems, water quality, habitat, and marine life.
- Environmental requirements specifically include monitoring, record systems to track inventory and movement of cultured fish, and a provision that operators must grow species native to the geographic region unless a scientific risk analysis shows that the risk of harm is negligible or can be effectively mitigated.

Existing laws and regulations would continue to apply.

- Implementation of the Act would require compliance with the *Coastal Zone Management Act*.
- To the extent practicable, the Secretary of Commerce would ensure that offshore aquaculture does not interfere with fisheries conservation and management or other uses of the EEZ.

Operations would be required to be monitored and permit terms and conditions enforced.

- The Secretary of Commerce would be required to collect information to evaluate the suitability of sites for aquaculture and monitor the effects of aquaculture, in cooperation with other federal agencies, and take appropriate measures to protect the environment
- The Secretary of Commerce would have the authority to suspend, modify, or revoke permits.

In addition to abiding by all permit terms and conditions, permit holders would be required to:

- Post bonds or other financial guarantees
- Remove structures, gear, and property and restore the site when the permit expires or is terminated.

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Permits

Permits would specify the location of the offshore aquaculture operation, the species to be grown, and the type of production system. Most permits would be for 20 years, renewable in increments up to 20 years.

- The Secretary of Commerce would set fees and establish permit terms and conditions.
- Permits would be transferable.
- Anyone could apply for a permit. Foreign persons or entities would be required to maintain a U.S. presence or agent so as to be subject to U.S law.
- Once all permit requirements are met, the Secretary of Commerce must issue or deny the permit within 120 days, or provide written notification to the applicant with an explanation and timeline for decision.

The Secretary of Commerce would be required to consult with federal agencies, Fishery Management Councils, and coastal states before issuing a permit.

- If a state submits written notification that it opposes offshore aquaculture, the Secretary of Commerce may not issue new permits within 12 miles of that state. The notice is revocable, and would not apply to applications received prior to the notice.
- If a site is in a location where other uses are already authorized, planned, or permitted under the Outer Continental Shelf Lands Act (OCSLA), or within 1 mile of an OCSLA-permitted facility, concurrence from the Secretary of the Interior is required, and the Secretary of the Interior could impose and enforce additional requirements. The addition of an aquaculture facility would not extend the timeline for decommissioning and removal of OCSLA facilities.

Research

The Secretary would be authorized to establish a research and development program to further marine aquaculture technologies compatible with marine ecosystems, in consultation with other federal agencies.

- The Secretary would be authorized to enter research partnerships with permit holders.
- The Secretary would be required to collaborate with the Secretary of Agriculture to conduct research to reduce the use of wild fish in aquaculture feeds.

What Changed from the 2005 Version of the Act?

Environmental Requirements

- Added an explicit requirement for Secretary of Commerce to establish environmental requirements and monitoring procedures and data requirements (by changing “may” to “shall” in relevant provisions).
- Added more specific language with respect to impacts on natural fish stocks, disease, escapes, water quality, cumulative impacts, monitoring, non-native species, and identification of farmed fish.
- Added an explicit requirement to consider potential environmental, social, economic, and cultural impacts and appropriate permit conditions to address negative impacts.
- Added an explicit requirement for the permit process to be established through rulemaking and consultations with coastal States and regional fishery management councils, including public notice and comment and preparation of an analysis under the National Environmental Policy Act.

Permits

- Calls for a single permit (instead of separate site and operating permits) for 20 years (instead of 10 years), renewable in increments of up to 20 years (instead of 5 years).

Role of States

- Added a new provision that would allow any coastal state to opt out of offshore aquaculture within 12 miles of its coastline.

Research

- The provision includes research for all marine aquaculture, not just offshore.
- Added a new provision requiring collaborative research with the U.S. Department of Agriculture on alternative feed formulas to reduce the use of wild fish in aquaculture feeds.