

109TH CONGRESS
1ST SESSION

S. 1195

IN THE SENATE OF THE UNITED STATES

JUNE 8, 2005

Mr. STEVENS (for himself and Mr. INOUE) (by request) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation.

To provide the necessary authority to the Secretary of Commerce for the establishment and implementation of a regulatory system for offshore aquaculture in the United States Exclusive Economic Zone, and for other purposes.

The National Offshore Aquaculture Act of 2005

Susan M. Bunsick
Policy Analyst
NOAA Aquaculture Program



Aquaculture America
Las Vegas, Nevada
February 16, 2006



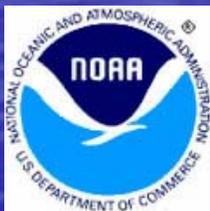
Purpose of the bill



A BILL

To provide the necessary authority to the Secretary of Commerce for the establishment and implementation of a regulatory system for offshore aquaculture in the United States Exclusive Economic Zone, and for other purposes.

- Authorizes offshore aquaculture in U.S. Exclusive Economic Zone
 - 3-200 miles offshore
- Responds to U.S. Commission on Ocean Policy
- Fulfills commitment in the President's U.S. Ocean Action Plan



Two new permits

- Site permit
 - 10 years
 - Renewable in 5 year increments
- Operating Permit

(8) OPERATING PERMIT.—The term “operating permit” means an authorization issued under section 4(c) to raise specified marine species in a specific offshore aquaculture facility within the area described in an offshore aquaculture site permit.

(11) SITE PERMIT.—The term “site permit” means an authorization issued under section 4(b) to use a specified area of the U.S. Exclusive Economic Zone for a specified period of time for purposes of offshore aquaculture.

(3) It shall be unlawful to engage in offshore aquaculture except in accordance with the terms of a valid site permit and a valid operating permit issued by the Secretary under this Act.



Permit features

- Open to U.S. and non-U.S. applicants
- Subject to terms, conditions, restrictions
- Transferable
- Revocable

(4) An offshore aquaculture permit holder shall—

(A) be a resident of the United States;

(B) be a corporation, partnership or other entity organized and existing under the laws of a State or the United States; or

(C) to the extent required by the Secretary of Commerce by regulation after coordination with the Secretary of State, waive any immunity, and consent to the jurisdiction of the United States and its courts, for matters arising in relation to such permit and appoint and maintain agents within the United States who are authorized to receive and respond to any legal process issued in the United States with respect to such permit holder.



Permit criteria

- Environmental requirements
- Compatibility with other uses
- Environmental risks
- Consistency with state coastal management plans
- Navigational safety zones
- Fees, bonds

(d) CRITERIA FOR ISSUING PERMITS.—

(1) The Secretary shall consult as appropriate with other Federal agencies to ensure that offshore aquaculture for which a permit has been issued under this section meets the environmental requirements established under section 5(a) and is compatible with the use of the Exclusive Economic Zone for navigation, fishing, resource protection, recreation, national defense (including military readiness), mineral exploration and development, and other activities.

(2) The Secretary shall consider risks to and impacts on natural fish stocks, marine ecosystems,

biological, chemical and physical features of water quality, habitat, marine mammals, other forms of marine life, birds, endangered species, and other features of the environment, as identified by the Secretary in consultation as appropriate with other Federal agencies.



Permit review process

- Coordinated with other agencies
- Concurrent submission/review of site and operating permits
- Decision within 120 days of complete application

(c) CONSULTATION WITH OTHER AGENCIES.—The Secretary shall consult as appropriate with Federal agencies that are authorized to issue permits within the Exclusive Economic Zone to develop a coordinated and streamlined permitting process for offshore aquaculture. The

process shall factor in the needs, requirements, and authorities of each Agency, including the need to consult with State agencies and the requirement for public review and involvement.



Environmental requirements

SEC. 5. ENVIRONMENTAL REQUIREMENTS.

(a) ENVIRONMENTAL REQUIREMENTS.—The Secretary shall consult as appropriate with other Federal agencies to identify the environmental requirements applicable to offshore aquaculture under existing laws and regulations. The Secretary may establish additional environmental requirements for offshore aquaculture facilities, if deemed necessary, in consultation with appropriate Federal agencies, coastal States, and the public. Environmental requirements may include, but are not limited to, environmental monitoring, data archiving, and reporting by the permit holder, as deemed necessary or prudent by

the Secretary. The environmental requirements shall consider risks to and impacts on—

- (1) natural fish stocks,
- (2) marine ecosystems,
- (3) biological, chemical and physical features of water quality and habitat,
- (4) marine mammals, other forms of marine life, birds, and endangered species, and
- (5) other features of the environment,

as identified by the Secretary, in consultation as appropriate with other Federal agencies.

- Will be established through rulemaking
 - A 2-year process
 - Consultation with other agencies and stakeholders
 - Permit holder responsible for removal/restoration



Aquaculture and “fishing”

(e) EXCLUSION FROM PROVISIONS OF MAGNUSON-
STEVENS FISHERY CONSERVATION AND MANAGEMENT
ACT.—

(1) Offshore aquaculture conducted in accordance with permits issued pursuant to this section 4 is excluded from the definition of “fishing” as that term is defined in section 3(15) of the Magnuson-

Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(15)).

(2) The Secretary shall ensure, to the extent practicable, that offshore aquaculture does not interfere with conservation and management measures promulgated under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(3) The Secretary shall consult with the appropriate Regional Fishery Management Council under that Act before issuing a permit.

(4) The Secretary may require permit holders to track, mark, or otherwise identify fish or other marine species in the offshore aquaculture facility or harvested from such facility.

- Exclusion from MSA definition of “fishing”
 - But not from restrictions on taking from wild
- Consultation with fishery management councils
- Authority to require tracking/marking



Research and development

SEC. 6. RESEARCH AND DEVELOPMENT.

(a) **IN GENERAL.**—In consultation as appropriate with other Federal agencies, the Secretary is authorized to establish an integrated, multidisciplinary, scientific research and development program to further offshore aquaculture technologies that are compatible with the protection of marine ecosystems.

(b) **RESEARCH PARTNERSHIPS.**—The Secretary is authorized to conduct research and development in partnership with site permit holders.

- Scientific program for sustainable offshore technologies
- Research partnerships



Other provisions

SEC. 7. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall promulgate such rules and regulations as are necessary and appropriate to carry out the provisions of this Act. The Secretary may at any time prescribe and amend such rules and regulations as the Secretary determines to be necessary and proper, and such rules and regulations shall, as of their effective date, apply to all operations conducted under permits issued under the provisions of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary for purposes of carrying out the provisions of this Act.

(f) EFFECT ON JURISDICTION, RESPONSIBILITIES, AND RIGHTS OF OTHER ENTITIES.— Nothing in this Act shall be construed to displace, supersede, limit, or modify

the jurisdiction, responsibilities, or rights of any Federal or State agency, or Indian Tribe or Alaska Native organization, under any Federal law or treaty.

- Rules and regulations
- Appropriations
- Monitoring and enforcement
- Special provisions for OCS facilities
- Jurisdiction



Status of bill

- S. 1195 introduced on June 8, 2005; sponsored by Senate Commerce Committee co-chairs, Sen. Stevens (AK) and Inouye (HI)
- Hearing before Senate Commerce Subcommittee in March
- Need House sponsors



U.S. SENATE COMMITTEE ON
Commerce, Science, and Transportation

TED STEVENS, Chairman

DANIEL INOUYE, Co-Chairman

FOR IMMEDIATE RELEASE

Contact: Melanie Alvord w/Senator Stevens at (202) 224-8456

Andy Davis w/Senator Inouye at (202) 224-4546

Stevens, Inouye Comment on Progress on Ocean Issues

Senate Commerce Committee Progress on Ocean Policy in 2005

S. 1195, Offshore Aquaculture –
Introduced, hearing planned for
March



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Proposed amendments

- Five amendments have been proposed:
 - Permit eligibility (SA766), by Sen. Inouye (HI), Stevens (AK)
 - Environmental requirements (SA767), by Sen. Inouye (HI), Stevens (AK)
 - Vessels (SA768), by Sen. Snowe (ME), Stevens (AK), Inouye (HI)
 - State opt-out (SA769), by Sen. Stevens (AK), Inouye (HI)
 - Additional studies (SA1727), by Sen. Murkowski (AK)
- Amendments introduced mainly in response to environmental NGOs and fishing industry
- NOAA working to develop position on amendments; will work with Congress to enact a bill that addresses concerns of stakeholders





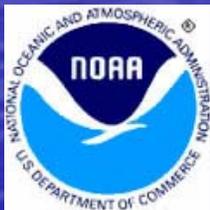
FOR IMMEDIATE RELEASE
Monday, February 13, 2006



**U.S. SECRETARY OF COMMERCE GUTIERREZ
STATEMENT ON THE NATIONAL OFFSHORE
AQUACULTURE ACT**

"I am convinced that the United States must explore the potential of offshore aquaculture to help meet the growing demand for seafood in this country and to create jobs and economic opportunity for coastal communities. To support that, we are making the *National Offshore Aquaculture Act of 2005* a priority for this department and this country. We need to create this opportunity now."

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For more information

NOAA Aquaculture Program Office

(301) 713-9079

www.aquaculture.noaa.gov

Library of Congress

(most up-to-date information on status of bill,
amendments, hearing schedule, etc.)

<http://thomas.loc.gov>



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