

111TH CONGRESS
2D SESSION

S. 3417

To prohibit offshore aquaculture until 3 years after the submission of a report on the impacts of offshore aquaculture, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2010

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To prohibit offshore aquaculture until 3 years after the submission of a report on the impacts of offshore aquaculture, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Research in Aqua-
5 culture Opportunity and Responsibility Act of 2010”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **AQUATIC SPECIES.**—The term “aquatic spe-
9 cies” means all species that are propagated, reared,
10 or grown in salt or brackish water, including finfish,

mollusks, crustaceans, algae, and all forms of marine life, other than sea turtles, marine mammals, and birds.

(2) COASTAL STATE.—The term “coastal State” means—

(A) a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, or Long Island Sound; and

(B) Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territories of the Pacific Islands, and American Samoa.

(3) COASTLINE.—The term “coastline” means the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters.

(4) EXCLUSIVE ECONOMIC ZONE.—

(A) DEFINITION.—The term “exclusive economic zone” means, unless otherwise specified by the President in the public interest in a writing published in the Federal Register, a zone, the outer boundary of which is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, ex-

cept as established by a maritime boundary treaty in force, or being provisionally applied by the United States or, in the absence of such a treaty where the distance between the United States and another nation is less than 400 nautical miles, a line equidistant between the United States and the other nation. Without affecting any Presidential Proclamation with regard to the establishment of the United States territorial sea or exclusive economic zone, the inner boundary of that zone is—

(i) a line coterminous with the seaward boundary (as defined in section 4 of the Submerged Lands Act (43 U.S.C. 1312)) of each coastal State;

(ii) a line 3 marine leagues from the coastline of the Commonwealth of Puerto Rico;

(iii) a line 3 geographical miles from the coastlines of American Samoa, the United States Virgin Islands, and Guam;

(iv) for the Commonwealth of the Northern Mariana Islands—

(I) its coastline, until such time as the Commonwealth of the Northern

1 Mariana Islands is granted authority
 2 by the United States to regulate all
 3 fishing to a line seaward of its coast-
 4 line; and

5 (II) upon the United States
 6 grant of such authority, the line es-
 7 tablished by such grant of authority;
 8 and

9 (v) for any possession of the United
 10 States not described in clause (ii), (iii), or
 11 (iv), the coastline of such possession.

12 (B) CONSTRUCTION.—Nothing in this
 13 paragraph may be construed as diminishing the
 14 authority of the Department of Defense or the
 15 Department of the Interior.

16 (5) EXECUTIVE AGENCY.—The term “Executive
 17 agency” has the meaning given that term in section
 18 105 of title 5, United States Code.

19 (6) LAND-BASED RECIRCULATING AQUA-
 20 CULTURE SYSTEM.—The term “land-based recircu-
 21 lating aquaculture system” means any system, in-
 22 cluding aquaponics, that is—

23 (A) located on land;

24 (B) recirculates more than 85 percent of
 25 the water used within the system;

1 (C) involved in the propagation and
2 rearing of aquatic species; and

3 (D) not located or operated in open waters,
4 including rivers, harbors, lakes, the exclusive
5 economic zone, or within nearshore waters
6 under State or territorial jurisdiction.

7 (7) OFFSHORE AQUACULTURE.—The term “off-
8 shore aquaculture”—

9 (A) means all activities, including the
10 placement or operation of an offshore aqua-
11 culture facility, involved in the propagation and
12 rearing, or attempted propagation and rearing,
13 of marine species in the exclusive economic
14 zone, including ocean ranching; and

15 (B) does not include—

16 (i) salmon hatcheries in the Pacific
17 Northwest or Alaska;

18 (ii) the cultivation of mollusks, except
19 cephalopods, or live rock in the exclusive
20 economic zone;

21 (iii) exempted or experimental fishing
22 activities conducted under an exempted
23 fish permit issued pursuant to section
24 600.745 of title 50, Code of Federal Regu-
25 lations (or successor regulations); or

1 (iv) the harvest of native ornamental
2 fish from existing oil or gas infrastructure.

3 (8) OFFSHORE AQUACULTURE FACILITY.—The
4 term “offshore aquaculture facility” means—

5 (A) an installation or structure used, in
6 whole or in part, for offshore aquaculture; or

7 (B) an area of the seabed or the subsoil
8 used for offshore aquaculture of living orga-
9 nisms belonging to sedentary species.

10 (9) SECRETARY.—Except as otherwise provided,
11 the term “Secretary” means the Secretary of Com-
12 merce.

13 **SEC. 3. PROHIBITION ON OFFSHORE AQUACULTURE.**

14 (a) PROHIBITION ON OFFSHORE AQUACULTURE.—
15 Notwithstanding the provisions of the Magnuson-Stevens
16 Fishery Conservation and Management Act (16 U.S.C.
17 1801 et seq.), no head of an executive agency and no Re-
18 gional Fishery Management Council established under sec-
19 tion 302 of the Magnuson-Stevens Fishery Conservation
20 and Management Act (16 U.S.C. 1852) may develop or
21 approve any rule, regulation, fishery management plan, or
22 fishery management plan amendment to permit or regu-
23 late offshore aquaculture until the date that is 3 years
24 after the date of the submission of the reports required
25 by sections 5 and 6.

1 (b) APPLICATION TO EXISTING PERMITS.—Any per-
2 mit issued by the head of an executive agency prior to
3 the date of the enactment of this Act to conduct offshore
4 aquaculture, including the siting or operation of offshore
5 aquaculture facilities, under the Magnuson-Stevens Fish-
6 ery Conservation and Management Act (16 U.S.C. 1801
7 et seq.) or any other Federal law shall cease to be valid
8 on the date of the enactment of this Act.

9 **SEC. 4. GRANTS FOR LAND-BASED AQUACULTURE.**

10 The Secretary and the Secretary of Agriculture shall
11 each provide grants for research related to land-based re-
12 circulating aquaculture systems.

13 **SEC. 5. REPORT ON OFFSHORE AQUACULTURE.**

14 (a) REQUIREMENT FOR REPORT.—Not later than
15 180 days after the date of the enactment of this Act, the
16 Secretary shall submit to Congress a report on offshore
17 aquaculture.

18 (b) CONTENT.—The report required by subsection
19 (a) shall include the following:

20 (1) The results of a comprehensive study on the
21 potential environmental impacts to native fish spe-
22 cies resulting from the use of each technology cur-
23 rently used in any offshore aquaculture operation
24 around the world.

1 (2) The results of a study on the economic im-
2 pacts of offshore aquaculture on land-based recircu-
3 lating aquaculture, other aquaculture operations,
4 and on recreational and commercial fishing, includ-
5 ing economic impacts—

6 (A) to fishing operations and coastal com-
7 munities throughout the United States; and

8 (B) specific to fishing operations and
9 coastal communities in the Gulf of Mexico.

10 (3) The recommendations of the Secretary for
11 regulatory guidelines to protect ocean ecosystems
12 from the impacts of offshore aquaculture, including
13 guidelines related to—

14 (A) preventing—

15 (i) pollution from concentrated fish
16 feces and uneaten food;

17 (ii) parasites, diseases, and their ef-
18 fects on native wildlife species;

19 (iii) escape of marine species from off-
20 shore aquaculture facilities;

21 (iv) degradation of wild stocks of ma-
22 rine species;

23 (v) negative impacts on commercial
24 and recreational fishing;

1 (vi) inefficient reliance on wild forage
2 fish to feed marine species in offshore
3 aquaculture facilities;

4 (vii) the inappropriate use of chemi-
5 cals to treat parasites and disease in off-
6 shore aquaculture; and

7 (viii) negative health impacts from
8 consumption of marine species produced in
9 offshore aquaculture; and

10 (B) allocation of reconstruction costs in
11 the event an offshore aquaculture facility is
12 abandoned or destroyed.

13 **SEC. 6. REPORT ON LAND-BASED RECIRCULATING AQUA-**
14 **CULTURE SYSTEMS.**

15 Not later than 180 days after the date of the enact-
16 ment of this Act, the Secretary, in consultation with the
17 Secretary of Agriculture, shall submit to Congress a report
18 on the economic potential of land-based recirculating
19 aquaculture systems, including—

20 (1) an analysis of the land and other resources
21 required for such systems;

22 (2) a description of such systems that are in ex-
23 istence on the date of the enactment of this Act and
24 an analysis of the of the economic impact of such
25 systems; and

- 1 (3) an analysis of the potential beneficial uses
- 2 of residual products from algal technologies as feed
- 3 in fish aquaculture.

